

**ARKANSAS CODE
OF 1987
ANNOTATED**

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ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 8B 2003 Replacement

TITLE 12: LAW ENFORCEMENT, EMERGENCY MANAGEMENT, AND MILITARY AFFAIRS (CHAPTERS 60-85)

TITLE 13: LIBRARIES, ARCHIVES, AND CULTURAL RESOURCES

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
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Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2003 Regular Session. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions through 2003 Ark. LEXIS 413 (July 3, 2003) and 2003 Ark. App. LEXIS 575 (July 25, 2003).

Federal Supplement through July 25, 2003.

Federal Reporter 3d Series through July 25, 2003.

United States Supreme Court Reports, through July 25, 2003.

Bankruptcy Reporter through July 25, 2003.

Arkansas Law Notes through the 2001 Edition.

Arkansas Law Review through Volume 56, p. 497.

University of Arkansas at Little Rock Law Journal through Volume 25, p. 752.

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| 2. Agriculture | 16. Practice, Procedure, and Courts |
| 3. Alcoholic Beverages | 17. Professions, Occupations, and Businesses |
| 4. Business and Commercial Law | 18. Property |
| 5. Criminal Offenses | 19. Public Finance |
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User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of Volume 1 of the Code.

TITLE 12

**LAW ENFORCEMENT, EMERGENCY
MANAGEMENT, AND MILITARY AFFAIRS**

(CHAPTERS 1-59 IN VOLUME 8A)

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CHAPTER.

1-5. [RESERVED.]

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SUBTITLE 4. MILITARY AFFAIRS**CHAPTER 60****GENERAL PROVISIONS**

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- 12-60-101. Title.
- 12-60-102. Definitions.
- 12-60-103. Persons subject to the code.

SECTION.

- 12-60-104. Delegation of authority by the Governor.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many con-

flicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

CASE NOTES

Cited: *Looper v. Thrash*, 334 Ark. 212, 972 S.W.2d 250 (1998).

12-60-101. Title.

This code shall be known as the “Military Code of Arkansas”.

History. Acts 1969, No. 50, § 1; A.S.A. 1947, § 11-101.

Meaning of “this code”. Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

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12-60-102. Definitions.

As used in this code, unless the context otherwise requires:

(1) “Organized militia” means the National Guard of the state as defined in 32 U.S.C. § 101(3);

(2) “Officer” means commissioned or warrant officer;

(3) “Commissioned officer” includes a commissioned warrant officer;

(4) “Commanding officer” includes only commissioned officers;

(5) “Superior commissioned officer” means a commissioned officer superior in rank or command;

(6) “Enlisted member” means a person in an enlisted grade;

(7) “Grade” means a step or degree in a graduated scale of office or military rank that is established and designated as a grade by law or regulation;

(8) “Rank” means the order of precedence among members of the armed forces;

(9) “Active state duty” means duty in the active military service of the state under an order of the Governor issued pursuant to authority vested in him by law and while going to and returning from such duty;

(10) “Duty status other than active state duty” means any type of duty other than active state duty;

(11) “Military court” means a court-martial, a court of inquiry, or a provost court;

(12) “Law officer” means an official of a general court-martial detailed in accordance with this act;

(13) “State judge advocate” means the commissioned officer responsible for supervising the administration of the military justice in the organized militia;

(14) “Accuser” means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused;

(15) “Military” refers to any or all of the armed forces;

(16) “Convening authority” includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command;

(17) "May" is used in a permissive sense. The words, "no person may ..." mean that no person is required, authorized, or permitted to do the act prescribed;

(18) "Shall" is used in an imperative sense;

(19) "Code" means this act;

(20) "Enemy" shall be deemed to include any person or persons engaged or participating in a riot, riotous activity, resistance to lawful process, insurrection, or rebellious assembly.

History. Acts 1969, No. 50, § 46; A.S.A. 1947, § 11-601.

Meaning of "this code". See note to § 12-60-101.

CASE NOTES

Cited: *Looper v. Thrash*, 334 Ark. 212, 972 S.W.2d 250 (1998).

12-60-103. Persons subject to the code.

The following persons who are not in federal service are subject to this code:

(1) Members of the organized militia.

(2) All other persons lawfully ordered to duty in or with the organized militia, including the Army National Guard, Air National Guard, the Arkansas Guard, and all persons ordered to duty in or with any of the foregoing from the dates they are required by the terms of the order or other directive to obey the code.

History. Acts 1969, No. 50, § 47; A.S.A. 1947, § 11-602.

Cross References. Code to be explained, § 12-64-107.

Meaning of "this code". See note to § 12-60-101.

12-60-104. Delegation of authority by the Governor.

The Governor may delegate any authority vested in him under this code, and may provide for the subdelegation of any such authority, except with respect to the power given him by §§ 12-64-406(a) and 12-64-603(b) of this code.

History. Acts 1969, No. 50, § 174; A.S.A. 1947, § 11-685.

Meaning of "this code". See note to § 12-60-101.

CHAPTER 61

MILITARY FORCES

SUBCHAPTER

1. STATE MILITIA GENERALLY.
2. NATIONAL GUARD GENERALLY.
3. STATE DEFENSE FORCE.

Cross References. Punitive articles, § 12-64-801 et seq.

Effective Dates. Acts 1997, No. 821, § 30: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in

this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

SUBCHAPTER 1 — STATE MILITIA GENERALLY

SECTION.

- 12-61-101. Division and composition.
- 12-61-102. Commander-in-Chief.
- 12-61-103. Governor's powers and duties generally.
- 12-61-104. Custom and usage of the armed forces of the United States.
- 12-61-105. Adjutant General — Qualifications — Salary.
- 12-61-106. Adjutant General — Powers and duties.
- 12-61-107. Employment of personnel.
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- 12-61-109. Adjutant General — Delegation of authority.
- 12-61-110. Property and finance officer.
- 12-61-111. Ordering militia into service.
- 12-61-112. Powers, duties, and immunities of militia.
- 12-61-113. Scope of duties — Service outside the state.
- 12-61-114. Call to duty.
- 12-61-115. Proclamation of emergency.
- 12-61-116. Excuse from duty.

SECTION.

- 12-61-117. Draft of the unorganized militia — Failure to appear — Penalty.
- 12-61-118. Resumption of National Guard service.
- 12-61-119. Credit for active federal service.
- 12-61-120. Credit for war service.
- 12-61-121. Awards, medals, etc.
- 12-61-122. National Guard associations.
- 12-61-123. Bureau of War Records.
- 12-61-124. Civilian juvenile student training programs.
- 12-61-125. National Guard Youth Challenge Program — Stipend.
- 12-61-126. National Guard Youth Challenge Program — Transportation.
- 12-61-127. Civilian Student Training Program — Stipend.
- 12-61-128. Civilian Student Training Program — Transportation.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many conflicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is

declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

Acts 1977, No. 694, § 9: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two-year period; that the effectiveness of this act on July 1, 1977 is essential to the operation of the agency for which the

appropriations in this act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1977 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977."

Acts 1983, No. 412, § 5: Mar. 13, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Governor should be granted the authority to designate certain military officers to administer the Oath of Enlistment to new members of the militia; that the crimes of assault and aggravated assault should be specifically provided for by the Military Code; that the jurisdiction of general, special, and summary courts-martial should be clarified; and that this act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 670, § 11: Apr. 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain disciplinary provisions of the state military code need to be

strengthened; that this act results in the same and should be given effect prior to the 1985 annual training of the military personnel subject to the state military code; that April 1 is a reasonable date to expect that this act will have been passed by both houses and acted upon by the Governor and that a date certain is desirable for the effective date. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after April 1, 1985."

Acts 1995, No. 639, § 26: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

12-61-101. Division and composition.

(a) The militia shall be divided into two (2) parts: the organized, consisting of the active and inactive Army National Guard and Air National Guard; and the unorganized, consisting of all those persons of the militia not in the active or inactive Army National Guard or Air National Guard.

(b) The militia shall consist of all able-bodied male residents of the state between the ages of seventeen (17) and forty-five (45) years who are, or intend to become, citizens of the United States, unless exempt by law, together with all other acceptable volunteers, waiving necessary requirements.

History. Acts 1969, No. 50, §§ 2, 3; A.S.A. 1947, §§ 11-102, 11-103.

Publisher's Notes. Acts 1981, No. 45,

§§ 4, 5, provided that the State Militia and the Arkansas Wing of the Civil Air Patrol, respectively, which were trans-

ferred by a type 2 transfer to the Department of Public Safety, Military Division, pursuant to Acts 1971, No. 38, § 14 [repealed], and all their powers, functions, duties, personnel, and funds would be detached from the Department of Public Safety (abolished by Acts 1981, No. 45, § 1) and restored to the State Militia and the State Military Department, the Arkansas Wing of the Civil Air Patrol to operate as a part of the State Military Department, all of which would operate and perform the same powers, functions, and duties as if they had never been transferred to the Department of Public Safety. The sections further provided that all members or heads of the State Militia, State Military Department, and the Arkansas Wing of the Civil Air Patrol would be appointed and serve as if the organiza-

tions had never been transferred to the Department of Public Safety. Section 4 provided, however, that the Adjutant General should be appointed as then provided by law.

The sections further provided that the act should not be so construed as to reduce any right which an employee of the State Militia, the State Military Department, or the Arkansas Wing of the Civil Air Patrol would have under any civil service or merit system.

Section 4 additionally provided that all the powers, functions, and duties added to the Military Division of the Department of Public Safety subsequent to the enactment of Acts 1971, No. 38 would be vested in and thereafter performed by the State Militia and the State Military Department.

CASE NOTES

Cited: Jones v. Clark, 278 Ark. 119, 644 S.W.2d 257 (1983).

12-61-102. Commander-in-Chief.

The Governor, by virtue of his office, shall be Commander-in-Chief of the militia, except the parts thereof as are ordered into the service of the United States.

History. Acts 1969, No. 50, § 4; A.S.A. 1947, § 11-104.

12-61-103. Governor's powers and duties generally.

(a)(1) The Governor is authorized to make such rules and regulations governing the government, organization, discipline, and training of the militia as he may deem expedient.

(2) Such rules and regulations shall conform to the provisions of this code and, as nearly as practicable, to those governing the armed forces of the United States.

(3) When promulgated, the rules and regulations shall have the same force and effect as the provisions of this code.

(4) Such rules and regulations shall not be repealed, altered, amended, or added to, except with the approval of the Governor.

(5) The rules and regulations in force at the time of the passage of this code shall remain in force until new rules and regulations are approved and promulgated.

(b) The Governor may, by executive order, designate National Guard commissioned officers or warrant officers or active duty officers or warrant officers serving in armed forces recruiting offices inside or

outside the State of Arkansas to administer the oath of enlistment to new members of the militia.

(c) Whenever he shall deem it necessary, the Governor may direct the members of the unorganized militia to present themselves for and submit to registration at such time and place and in such manner as may be prescribed by regulations.

History. Acts 1969, No. 50, §§ 5, 199; 1983, No. 412, § 1; A.S.A. 1947, §§ 11-105, 11-1101.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [re-

pealed], 12-62-401, 12-62-402 [repealed], 12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-61-104. Custom and usage of the armed forces of the United States.

All matters relating to the organization, discipline, and government of the organized militia, not otherwise provided for in this code or in regulations issued pursuant thereto, shall be as prescribed by the customs and usages of the appropriate force or forces of the United States.

History. Acts 1969, No. 50, § 200; A.S.A. 1947, § 11-1102.

Meaning of "this code". See note to § 12-61-103.

12-61-105. Adjutant General — Qualifications — Salary.

(a) There shall be an Adjutant General of the state who shall be appointed by the Governor and shall be a commissioned officer in the Adjutant General's department of the National Guard of this state and shall have rank not higher than major general.

(b) To be eligible for appointment, he shall be a citizen of the United States and a resident of the State of Arkansas, and:

(1) He must be an officer in the active militia with not less than seven (7) successive years' service immediately next preceding his appointment; or

(2) He must have been in service in the active militia of this state as a commissioned officer for a period of fifteen (15) years, eight (8) of which were as a field grade officer or general officer, or both combined; or

(3) He must have held the rank of a field grade officer in the active militia and, as such, have been called into federal service and have commanded a unit during such service.

(c)(1) The pay of the Adjutant General and the assistant adjutant general shall be the same as is allowed to officers of like grade, service, and rank by the pay tables of the United States Army or Air Force at the time such pay accrues.

(2) The Adjutant General is permitted to receive payments in addition to regular salary as provided by § 21-5-201 et seq. while serving in the federal position of technician while also serving as Adjutant General. Such additional payments are provided for in Title IV of the Intergovernmental Personnel Act of 1970, Public Law 91-648.

History. Acts 1969, No. 50, § 10; 1977, No. 694, § 6; A.S.A. 1947, §§ 11-110, 11-110.1. mental Personnel Act of 1970, Public Law 91-648, is codified as 5 U.S.C. §§ 3371-3376.

U.S. Code. Title IV of the Intergovern-

12-61-106. Adjutant General — Powers and duties.

(a) In addition to being a state staff officer, the Adjutant General shall be the Chief-of-Staff to the Commander-in-Chief and the administrative head of the Military Department.

(b) He shall perform the duties prescribed for him in this code and in the regulations issued thereunder and in the statutes of the United States.

(c) He shall direct and supervise the functions and duties of the chief-of-staff departments.

(d) He shall hold office as provided in the National Defense Act as amended.

(e) He shall superintend the preparation of all returns and reports required by the United States from the state.

(f) He shall have the custody of all military records, correspondence, and other military documents.

(g) He shall be the medium of military correspondence with the Governor and perform all other duties pertaining to his office prescribed by law.

(h) He shall keep a register of all the officers of the military forces of the state.

(i) He shall keep in his office all records and papers required to be kept and filed therein. He shall make such reports to the Governor, at such times as the Governor may require, of all the transactions of his department, setting forth the number, strength, and condition of the active militia and such other matters as he may deem important, including a detailed statement of all the expenditures for military purposes during that fiscal year.

(j) He shall, at the expense of the state, when necessary, cause the military law, instruction pamphlets, orders, and the general regulations of the state and the United States to be printed, indexed, and distributed as deemed necessary.

(k) He shall cause to be prepared and issued all necessary blank books, blank forms, and notices required to carry into full effect the provisions of this code. All such books and blanks shall be and remain the property of the state.

(l) He shall procure and keep in his office a seal for the authentication of all certificates and other instruments emanating from his office,

the device upon which such seal shall consist of a star with five (5) points with the words, "Office of the Adjutant General, State of Arkansas," around the margin and shall deliver the seal to his successor. He shall attest all commissions issued to military officers.

(m) He shall keep a just and true account of all state expenses necessarily incurred, including pay of officers and enlisted personnel, allowances to officers and organizations, and any other moneys required to be disbursed by him and through his office, including subsistence of the militia, transportation of the militia and of all military property of the state; and such expenses shall be audited and paid in the same manner as other military accounts are audited and paid.

(n) The Adjutant General may, at his discretion, inspect all units of the militia.

(o) For the purpose of effectively carrying out the terms of this code, the Adjutant General shall have the power to prescribe such rules and regulations as he may from time to time deem necessary.

History. Acts 1969, No. 50, §§ 6, 204;
A.S.A. 1947, §§ 11-110, 11-1106.

Meaning of "this code". See note to
§ 12-61-103.

12-61-107. Employment of personnel.

The Adjutant General shall have such assistance and such clerks, employees, and laborers as may be necessary from time to time who shall be appointed and may be removed by him at his discretion.

History. Acts 1969, No. 50, § 12;
A.S.A. 1947, § 11-112.

12-61-108. Deputy adjutants general.

(a)(1) The Adjutant General is authorized to appoint, subject to the approval of the Governor, two (2) deputy adjutants general who will hold rank of not higher than one (1) grade below that held by the Adjutant General up to and including the rank of brigadier general.

(2) One (1) deputy adjutant general will be Army National Guard and one (1) deputy adjutant general will be Air National Guard.

(3) However, the foregoing shall not preclude the appointment of federally recognized major generals to perform the additional duties of deputy adjutants general.

(b) At the time of the appointment:

(1) He must be an officer in the active service in the Army National Guard or the Air National Guard of this state for three (3) successive years immediately preceding his appointment; or

(2) He must have been in the active service in the branch or arm for which appointed of the Army or Air National Guard as a commissioned officer; or

(3) If not in active National Guard service at the time of appointment, he must have had prior service of at least six (6) years in the

branch or arm of the Army National Guard or Air National Guard of this state.

(c) The deputy adjutants general must have a thorough knowledge of the organization and missions of the departments and components of the armed forces of the United States.

(d) To be eligible for appointment as a Deputy Adjutant General for Air, the officer must be assigned to the Air National Guard in the rank of colonel, federally recognized.

(e) He shall subscribe to the oath of office prescribed for members of the Arkansas Army National Guard and Air National Guard, which oath shall be deposited in the office of the Adjutant General.

(f) He shall, during his term of office, be entitled to all rights, privileges, and immunities granted officers of like rank in the Arkansas National Guard.

(g) He shall aid the Adjutant General by the performance of such duties as may be assigned to him.

History. Acts 1969, No. 50, § 14; A.S.A. 1947, § 11-114; Acts 1987, No. 360, § 1; 1991, No. 510, § 1.

12-61-109. Adjutant General — Delegation of authority.

The Adjutant General may designate by order any deputy adjutant general to act as the Adjutant General in the absence of the latter from his office or in case of his inability to perform the duties of his office. In the event of the inability of any deputy adjutant general to perform the duties of the Adjutant General, then the Adjutant General may appoint by order any qualified Army or Air Guard officer in the grade of colonel or above.

History. Acts 1969, No. 50, § 13; A.S.A. 1947, § 11-113; Acts 1989, No. 179, § 1; 1991, No. 510, § 2.

12-61-110. Property and finance officer.

(a) The Governor, upon recommendation of the Adjutant General, shall appoint, designate, and detail, subject to the approval of the Secretary of the Army, an officer of the National Guard as the property and finance officer for the United States.

(b) He shall be a citizen of the United States, a resident of Arkansas, and shall have served on the active list as a commissioned officer of either the Army, Navy, Marine Corps, Air Force, or the National Guard of this state.

(c) He shall receive and account for all funds and property belonging to the United States in possession of the Arkansas National Guard and shall make such disbursements, returns, and reports as may be required by the Secretary of the Army.

(d) Before entering upon the performance of his duties, he shall be required to give good and sufficient bond to the United States in an

amount determined by the Secretary of the Army for the faithful performance of his duties and for the safekeeping and proper disposition of the federal property and funds entrusted to him.

History. Acts 1969, No. 50, § 14;
A.S.A. 1947, § 11-114.

12-61-111. Ordering militia into service.

(a)(1) The Governor shall have power in case of invasion, disaster, insurrection, riot, breach of the peace, or imminent danger thereof, or to preserve the public health and security and maintain law and order, to order into the active service of the state for such a period, to such extent, and in such manner as he may deem necessary, all or any part of the organized militia.

(2) Such power shall include the power to order the organized militia or any part thereof to function under the operational control of the United States Army, Navy, or Air Force commander in charge of the defense of any area within the state.

(b)(1) Upon the request of either the judge or sheriff of a county or the mayor of a city, whenever it is made to appear to the Governor that there is a breach of the peace, riot, resistance to process of this state, or disaster or imminent danger thereof, the Governor may order into the active service of the state, for such period, to such extent, and in such manner as he may deem necessary, all or any part of the organized militia.

(2) The compensation of all officers and enlisted personnel while on duty or assembled pursuant to this subsection and all expenses incurred in connection with such duty or as a result thereof shall be paid in the manner prescribed by law.

History. Acts 1969, No. 50, §§ 6, 7;
1985, No. 670, § 1; A.S.A. 1947, §§ 11-106, 11-107.

12-61-112. Powers, duties, and immunities of militia.

(a) Whenever such forces or any part thereof shall be ordered out for service of any kind, they shall have all powers, duties, and immunities of peace officers of the State of Arkansas in addition to all powers, duties, and immunities now otherwise provided by law.

(b) No officer or enlisted personnel of such forces shall be arrested on any warrant except for treason or felony while going to, remaining at, or returning from a place where they are ordered to attend for military duty.

(c) Whenever any part of the militia of the state is on active duty pursuant to the order of the Governor in the enforcement of the law or executing the orders of the Commander-in-Chief, the commanding officer of such troops may order the closing of any place where arms, ammunition, dynamite, or other explosives are sold and restrict or

forbid the selling, bartering, lending, or giving away of any such articles so long as any of the troops remain on duty in such place, or in the vicinity where such place may be located, whether any civil officer has forbidden the same or not.

(d) The commanding officer of the organization on duty under this code will cooperate in aid of the civil power, but under the orders of the Commander-in-Chief or Adjutant General and not the civil authorities.

History. Acts 1969, No. 50, §§ 6, 7; **Meaning of "this code".** See note to A.S.A. 1947, §§ 11-106, 11-107. § 12-61-103.

12-61-113. Scope of duties — Service outside the state.

(a) The Governor may order the National Guard or any portion thereof to perform military duty of every description within the state. He may authorize participation in small arms and gunnery competitions by any part of the National Guard anywhere outside the state or outside the United States.

(b) Officers and enlisted personnel of the National Guard shall be subject to and governed by the provisions of this act while without this state under the order or authorization of the Governor under this section in like manner and to the same extent as when on duty within this state under orders of the Governor.

History. Acts 1969, No. 50, §§ 15, 16; **Meaning of "this code".** See note to A.S.A. 1947, §§ 11-115, 11-116. § 12-61-103.

12-61-114. Call to duty.

Officers and enlisted personnel may be ordered for duty either by stating the substance of the orders telephonically, personally, by mail, or in such other manner as may be prescribed by the Governor as he deems necessary to accomplish the purpose. Upon having given notice, there shall be a presumption that the officer or enlisted person was properly called to duty.

History. Acts 1969, No. 50, § 18; 1985, No. 670, § 2; A.S.A. 1947, § 11-118.

12-61-115. Proclamation of emergency.

(a) Whenever any portion of the militia is employed in aid of the civil authority, the Governor, if in his judgment the maintenance of law and order or preservation of the public health or security will thereby be promoted, may by proclamation declare the county, city, zone, or sector in which the troops are serving, or any specified portion thereof, to be in a state of insurrection or emergency.

(b) Should the Governor proclaim a state of insurrection or emergency hereunder and in the event the local courts or law enforcement officers are incapable of functioning, such legal functions in furtherance

of the enforcement of the civil laws of the state shall be performed by the militia.

History. Acts 1969, No. 50, §§ 8, 20;
A.S.A. 1947, §§ 11-108, 11-120.

12-61-116. Excuse from duty.

(a) The officer ordering any military duty shall have the power to excuse any officer or enlisted person for absence therefrom upon good and sufficient grounds.

(b) The Governor, or commanding general of the National Guard with the approval of the Governor, may relieve any organization of the militia on active duty from the further performance of such duty and may order any other organization to perform such duty.

(c) However, the provisions of this section shall not curtail the rights of commanding officers to grant leaves of absence and furloughs as provided by regulations unless they are specifically modified by orders from superior authority.

History. Acts 1969, No. 50, § 19; 1985,
No. 670, § 2; A.S.A. 1947, § 11-119.

12-61-117. Draft of the unorganized militia — Failure to appear — Penalty.

(a) Whenever it shall be necessary in case of invasion, disaster, insurrection, riot, breach of the peace, or imminent danger thereof, or to maintain the organized militia or any force thereof at the number required for public safety or prescribed by the laws of the United States, the Governor may call for and accept from the unorganized militia as many volunteers as are required for service in the organized militia or he may direct the members of the unorganized militia or such of them as may be necessary to be drafted into the organized militia or any force thereof.

(b) Whenever it shall be necessary in such a case, the Governor may direct the members of the unorganized militia or such of them as may be necessary to be drafted, under such regulations as he may prescribe, into the active service of the state to serve as directed by him.

(c) Any member of the unorganized militia who is ordered to register or to be drafted into the organized militia under the provisions of this code and who fails to appear at the time and place designated in such order shall be guilty of a misdemeanor and upon conviction by a civil court shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000) or imprisonment in the county jail for a term of not less than one (1) month nor more than one (1) year, or both.

History. Acts 1969, No. 50, § 9; A.S.A.
1947, § 11-109.

Meaning of "this code". See note to
§ 12-61-103.

12-61-118. Resumption of National Guard service.

Upon the termination of any emergency for which the National Guard of Arkansas has been ordered into the military service of the United States, all enlisted personnel, upon being released under honorable conditions from the Army or Air Force of the United States, shall continue to serve in the National Guard of Arkansas until the dates upon which their enlistments prior to their active duty would have expired if uninterrupted. The commissioned officers shall resume their commissions in the National Guard of Arkansas in the respective grades held by them when ordered to active duty or in any higher grade which they may have attained while in service if appointed by the Governor to fill existing vacancies.

History. Acts 1969, No. 50, § 17; 1985, No. 670, § 2; A.S.A. 1947, § 11-117.

12-61-119. Credit for active federal service.

For all purposes under this code, members of the National Guard who entered the active military service of the United States in time of war or under a call, order, or draft by the President or who hereafter enter such service under like conditions or who enter and serve on active duty in the military service of the United States in time of peace or war and who thereafter return to the military service of the state shall be entitled to credit for time served as if such service had been rendered to the state.

History. Acts 1969, No. 50, § 27; A.S.A. 1947, § 11-207.

Meaning of "this code". See note to § 12-61-103.

12-61-120. Credit for war service.

For all purposes under this code, officers and enlisted personnel of the National Guard who entered the active service of the United States in time of war or under a call or draft by the President or who enters such service under like conditions shall be entitled to credit for time so served as if such service had been rendered in the National Guard.

History. Acts 1969, No. 50, § 38; 1985, No. 670, § 4; A.S.A. 1947, § 11-406.

Meaning of "this code". See note to § 12-61-103.

12-61-121. Awards, medals, etc.

(a)(1) The Governor is authorized to award in the name of the State of Arkansas any medal, ribbon, or decoration for any exceptional or meritorious service rendered by any member of the organized militia.

(2) These include, but are not limited to, the "Arkansas Commendation Medal", the "Arkansas Distinguished Service Medal", and the "Arkansas Medal of Honor".

(3) The Military Department of the State of Arkansas is authorized to promulgate necessary rules and regulations to establish the criteria under which any medal, ribbon, or decoration may be awarded.

(b) Whenever it shall appear to the satisfaction of the Adjutant General that any service medal duly issued by the State of Arkansas, in accordance with the military rules and regulations, to a member of the organized militia, has been lost or stolen, he may, in his discretion, and upon such terms as he may impose upon written application of the person originally entitled to such medal, issue a duplicate thereof.

History. Acts 1969, No. 50, §§ 201, 202; A.S.A. 1947, §§ 11-1103, 11-1104; Acts 1991, No. 550, § 1.

12-61-122. National Guard associations.

(a) The officers or noncommissioned officers or members of any unit or units of the organized militia may organize themselves into an association or associations.

(b) The association or associations may adopt bylaws not inconsistent with the statutes of the state and alter and amend the bylaws and may take and hold such real and personal property as may be necessary for the purposes of the association.

History. Acts 1969, No. 50, § 203; A.S.A. 1947, § 11-1105.

12-61-123. Bureau of War Records.

(a) The Adjutant General may, at his discretion and with such funds as may be appropriated by the General Assembly, establish a Bureau of War Records.

(b) The Bureau of War Records shall function in close connection with the Arkansas History Commission and shall gather items of military history of the Arkansas Militia for exhibition.

(c) The Adjutant General may adopt such reasonable and necessary regulations as may be necessary to accomplish this purpose.

History. Acts 1969, No. 50, § 11; A.S.A. 1947, § 11-111.

12-61-124. Civilian juvenile student training programs.

(a) The Adjutant General may, at his discretion and with such funds as may be appropriated by the General Assembly, or with such funds as may be provided by the United States, develop and implement civilian juvenile student training programs for the purpose of providing training, education, health, welfare, rehabilitative, and other services to juveniles.

(b) The Adjutant General is authorized to enter into agreements, contracts, and memoranda of understanding with other state, federal,

and local agencies, other persons, firms, and corporations, and the juvenile courts of this state for the purposes of providing training, education, health, welfare, rehabilitative, and other services to juveniles participating in such programs as may be implemented by the Adjutant General.

(c) The Adjutant General may promulgate and issue such rules, regulations, and other guidelines as may be necessary and proper to carry out the purposes and provisions of this section.

(d)(1) Juvenile participants in the Civilian Student Training Program receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities. Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.

(2) Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease/purchase of motor vehicles not to exceed six (6) vehicles.

History. Acts 1993, No. 375, § 1; 1995, No. 639, §§ 18, 19; 1997, No. 1201, § 2.

12-61-125. National Guard Youth Challenge Program — Stipend.

(a) Juvenile participants in the Arkansas National Guard Youth Challenge Program at Camp Joseph T. Robinson receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed fifteen dollars (\$15.00) per week to defray personal hygiene and other personal necessities, and a monetary stipend not to exceed two thousand two hundred dollars (\$2,200) upon graduation from the program to defray costs for additional job training or education.

(b) Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.

History. Acts 1995, No. 639, § 17; 1997, No. 821, § 21.

A.C.R.C. Notes. The 1997 act did not amend the section.

Acts 2003, No. 1316, § 19 provided: "YOUTH CHALLENGE PROGRAM — STIPENDS. Juvenile participants in the Arkansas National Guard Youth Challenge Program at Camp Joseph T. Robinson receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed fifteen dollars (\$15.00) per week to defray per-

sonal hygiene and other personal necessities, and a monetary stipend not to exceed two thousand two hundred dollars (\$2,200) upon graduation from the program to defray costs for additional job training or education. Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities. The provisions of this section shall be in effect only from July 1, 2003 through June 30, 2005."

12-61-126. National Guard Youth Challenge Program — Transportation.

Transportation to support Arkansas National Guard Youth Challenge Program activities for juvenile participants and staff may be provided by commercial lease or purchase of motor vehicles not to exceed six (6) vehicles.

History. Acts 1995, No. 639 § 20; 1997, No. 821, § 24.

A.C.R.C. Notes. The 1997 act did not amend the section.

Acts 2003, No. 1316, § 20 provided: "YOUTH CHALLENGE PROGRAM TRANSPORTATION. Transportation to

support Arkansas National Guard Youth Challenge Program activities for juvenile participants and staff may be provided by commercial lease/purchase of motor vehicles not to exceed six vehicles. The provisions of this section shall be in effect only from July 1, 2003 through June 30, 2005."

12-61-127. Civilian Student Training Program — Stipend.

(a) Juvenile participants in the Civilian Student Training Program at Camp Joseph T. Robinson receiving services from the Arkansas National Guard are authorized to receive a monetary stipend, not to exceed ten dollars (\$10.00) per week to defray personal hygiene and other personal necessities.

(b) Juvenile participants are authorized to receive uniforms and clothing items as determined by the staff to be appropriate for effective participation in outdoor activities.

History. Acts 1995, No. 639, § 18; 1997, No. 821, § 22.

A.C.R.C. Notes. The 1997 act did not amend the section.

12-61-128. Civilian Student Training Program — Transportation.

Transportation to support Civilian Student Training Program activities for juvenile participants and staff may be provided by commercial lease or purchase of motor vehicles not to exceed six (6) vehicles.

History. Acts 1995, No. 639, § 19; 1997, No. 821, § 23.

A.C.R.C. Notes. The 1997 act did not amend the section.

Acts 2003, No. 1316, § 18 provided: "CIVILIAN STUDENT TRAINING PROGRAM TRANSPORTATION. Transportation to support Civilian Student Training

program activities for juvenile participants and staff may be provided by commercial lease/purchase of motor vehicles not to exceed six vehicles at Camp Joseph T. Robinson. The provisions of this section shall be in effect only from July 1, 2003 through June 30, 2005."

SUBCHAPTER 2 — NATIONAL GUARD GENERALLY

SECTION.

- 12-61-201. Commanding general of the organized militia.
- 12-61-202. Army National Guard.
- 12-61-203. Air National Guard.
- 12-61-204. Inactive National Guard.

SECTION.

- 12-61-205. Discipline, organization, and training.
- 12-61-206. Assemblies, annual training, and other duties.
- 12-61-207. Female members.

Cross References. Regulations governing use of national guard property, § 12-63-302.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many conflicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

Acts 1985, No. 670, § 11: Apr. 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain disciplinary provisions of the state military code need to be strengthened; that this act results in the same and should be given effect prior to the 1985 annual training of the military personnel subject to the state military code; that April 1 is a reasonable date to expect that this act will have been passed by both houses and acted upon by the Governor and that a date certain is desirable for the effective date. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after April 1, 1985."

12-61-201. Commanding general of the organized militia.

(a) The organized militia shall be commanded by a general officer who shall be federally recognized or qualified for federal recognition in a rank not higher than major general.

(b) He shall be responsible for the military efficiency of the Arkansas organized militia.

History. Acts 1969, No. 50, § 21; A.S.A. 1947, § 11-201.

12-61-202. Army National Guard.

The land force of the organized militia shall be the Army National Guard as contemplated under the laws of the United States and shall comprise the army units which are a part of the Arkansas National Guard on February 12, 1969, and such other army units as may be allocated, accepted, and organized thereafter, including the personnel who are enlisted, appointed, or commissioned therein, provided that all persons who are members of the Army National Guard shall be federally recognized as such.

History. Acts 1969, No. 50, § 22; A.S.A. 1947, § 11-202.

CASE NOTES

Membership.

Upon the loss of his federal recognition, the Adjutant General lost his eligibility

for membership in the Arkansas National Guard. *Looper v. Thrash*, 334 Ark. 212, 972 S.W.2d 250 (1998).

12-61-203. Air National Guard.

The air force of the organized militia shall be the Air National Guard as contemplated under the laws of the United States and shall comprise the air units which are a part of the Arkansas National Guard on February 12, 1969, and such other air units as may be allocated, accepted, and organized thereafter, including the personnel who are enlisted, appointed, or commissioned therein, provided that all persons who are members of the Air National Guard shall be federally recognized as such. The aviation units of the Army National Guard shall not be considered air units within the meaning of this code.

History. Acts 1969, No. 50, § 23; A.S.A. 1947, § 11-203.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-61-204. Inactive National Guard.

The inactive National Guard shall consist of the persons commissioned, appointed, or enlisted therein on February 12, 1969, such officers and enlisted persons as may be thereafter transferred thereto from the Army National Guard and the Air National Guard, and such persons as may be commissioned or enlisted therein under the laws of the United States and the regulations thereunder.

History. Acts 1969, No. 50, § 28; 1985, No. 670, § 3; A.S.A. 1947, § 11-208.

12-61-205. Discipline, organization, and training.

(a) The system of discipline and training of the National Guard shall conform generally to that of the armed forces of the United States as it is now or may hereafter be prescribed by the President and conform to the provisions of the laws of the United States, except as otherwise provided in this code or by the regulations issued by the Governor.

(b) The forces of the Army National Guard and Air National Guard shall be organized, equipped, armed, disciplined, governed, administered, and trained as prescribed by the laws of the United States and by this code and the regulations issued thereunder.

(c) Pursuant to subsection (b) of this section, the Governor is authorized to organize, reorganize, or disband any unit, headquarters, or staff therein, to increase or decrease the number of commissioned officers, warrant officers and noncommissioned officers of any grade therein, and to increase or decrease the strength of the organized militia. However, no organization of the Army National Guard and Air National Guard, the members of which shall be entitled to and shall

have received compensation under the provisions of the National Defense Act of 1916, as amended, shall be disbanded without the consent of the President of the United States, nor without such consent shall the commissioned or enlisted strength of any organization be reduced below the minimum that shall be prescribed therefor by the President of the United States.

History. Acts 1969, No. 50, §§ 24, 39; A.S.A. 1947, §§ 11-204, 11-407.

Meaning of "this code". See note to § 12-61-203.

U.S. Code. The National Defense Act of 1916 referred to in this section is codified as 10 U.S.C. §§ 3446, 3926, 4301, 8446, and 8926.

12-61-206. Assemblies, annual training, and other duties.

(a) Members and units of the National Guard shall assemble for drill or other equivalent training, instruction, or duties during each year and shall participate in field training, encampments, maneuvers, schools, conferences, or other similar duties each year as may be prescribed by the laws of the United States and of the state and the regulations issued thereunder. However, no assembly of any such unit of the organized militia shall be ordered in time of peace for any day during which a general election shall be held, except in case of riot, invasion, or insurrection or imminent danger thereof.

(b) Within the amount appropriated therefor, the Adjutant General may prescribe and order the number of days, if any, for assemblies or drills or other equivalent training, instruction, or duties to be performed annually by members of the National Guard for which they may receive pay and allowances.

(c) Within the amount appropriated therefor, the Adjutant General may prescribe and order the number of days, if any, of field training, encampments, maneuvers, schools, conferences, or other similar duties to be performed by members of the National Guard for which they may receive pay and allowances.

(d) Members of the National Guard may be ordered by the Governor or under his authority to perform special duty, including duty in a judicial proceeding or course of justice conducted pursuant to § 12-64-101 et seq., or as a member of or in any other capacity with any military board or as an investigating officer or as a medical examiner or as a judge advocate in the performance of legal services in any suit, action, or proceeding pertaining to the military.

History. Acts 1969, No. 50, § 25; A.S.A. 1947, § 11-205.

12-61-207. Female members.

The Governor may appoint, commission, and enlist female citizens of the state into the National Guard where the laws and regulations of the United States permit. While so serving, they will have the same status as male members of the military forces.

History. Acts 1969, No. 50, § 26;
A.S.A. 1947, § 11-206.

SUBCHAPTER 3 — STATE DEFENSE FORCE

SECTION.

- 12-61-301. Authority for calling.
12-61-302. Organization and govern-
ment.
12-61-303. Duties, privileges, etc.

SECTION.

- 12-61-304. Commander.
12-61-305. Assignments.
12-61-306. Discharge and release.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many conflicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

Acts 1985, No. 670, § 11: Apr. 1, 1985.

Emergency clause provided: "It is hereby found and determined by the General Assembly that certain disciplinary provisions of the state military code need to be strengthened; that this act results in the same and should be given effect prior to the 1985 annual training of the military personnel subject to the state military code; that April 1 is a reasonable date to expect that this act will have been passed by both houses and acted upon by the Governor and that a date certain is desirable for the effective date. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after April 1, 1985."

12-61-301. Authority for calling.

The Arkansas State Defense Force may be called to active duty at the discretion of the Governor, when any part of the Arkansas National Guard shall have been called or ordered into federal service, or in any other emergency when the Governor shall deem it necessary to supplement the Arkansas National Guard.

History. Acts 1969, No. 50, § 40; 1985, No. 670, § 5; A.S.A. 1947, § 11-501; Acts 1989, No. 283, § 1.

A.C.R.C. Notes. In amending this

subchapter, Acts 1989, No. 283, changed the name of the Arkansas State Guard to the Arkansas State Defense Force.

12-61-302. Organization and government.

(a) The Arkansas State Defense Force shall be organized and governed by the terms of this code and by such rules and regulations as may be promulgated from time to time.

(b) Except when otherwise provided, all provisions of this code and regulations in respect to the Arkansas National Guard shall apply to the Arkansas State Defense Force.

History. Acts 1969, No. 50, § 41; A.S.A. 1947, § 11-502.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-61-303. Duties, privileges, etc.

All duties imposed and all provisions relating to the privileges, immunities, and prohibitions of the Arkansas National Guard shall likewise apply to the Arkansas State Defense Force.

History. Acts 1969, No. 50, § 42; A.S.A. 1947, § 11-503.

12-61-304. Commander.

When organized for active state duty, the Arkansas State Defense Force shall be commanded by any general officer holding an Arkansas state commission, in a rank not above brigadier general, who shall be appointed by the Governor.

History. Acts 1969, No. 50, § 43; 1985, No. 670, § 6; A.S.A. 1947, § 11-504; Acts 1989, No. 283, § 2.

12-61-305. Assignments.

All officers and enlisted personnel of the organized militia not otherwise assigned may be assigned to the Arkansas State Defense Force for such time and in such manner as prescribed by regulations promulgated by the Governor as he deems necessary.

History. Acts 1969, No. 50, § 44; 1985, No. 670, § 6; A.S.A. 1947, § 11-505.

12-61-306. Discharge and release.

Upon the release of officers and enlisted personnel from the Arkansas State Defense Force, they shall resume the status held by them prior to their activation.

History. Acts 1969, No. 50, § 45; 1985, No. 670, § 6; A.S.A. 1947, § 11-506; Acts 1989, No. 283, § 3.

CHAPTER 62

MILITARY PERSONNEL

SUBCHAPTER.

1. OFFICERS.
2. ENLISTED PERSONNEL.
3. PAY AND ALLOWANCES.
4. PRIVILEGES.
5. ARKANSAS NATIONAL GUARD STUDENT LOAN REPAYMENT PROGRAM OF 1995.
6. ARKANSAS NATIONAL GUARD TUITION INCENTIVE PROGRAM.
7. ARKANSAS SOLDIERS' AND AIRMEN'S CIVIL RELIEF ACT.

RESEARCH REFERENCES

ALR. Validity and construction of state statutes requiring employers to compensate employees for absences occasioned by military service. 8 ALR 4th 704.

SUBCHAPTER 1 — OFFICERS

SECTION.

- 12-62-101. Appointment.
 12-62-102. Prerequisites to appointment
 — Disqualifications.

SECTION.

- 12-62-103. Assignment and transfer.
 12-62-104. Removal.

12-62-101. Appointment.

(a) All commissioned officers of the National Guard shall be appointed and promoted by the Governor upon recommendation of the Adjutant General and must be citizens of the United States eighteen (18) years of age or older.

(b) General officers above the grade of brigadier general shall be appointed and promoted by the Governor with the consent of the Senate. During the time that the Senate is not in session, the Governor may make such appointments subject to subsequent confirmation by the Senate.

History. Acts 1969, No. 50, § 29; A.S.A. 1947, § 11-301.

Publisher's Notes. Acts 1969, No. 50, § 31, provided that all the then-present commissioned officers and warrant officers

of the National Guard would hold their respective commissions in the same grade and branch after the passage of the act, and that the commissions would be held in accordance with the provisions of the act.

12-62-102. Prerequisites to appointment — Disqualifications.

(a) No person shall be appointed or promoted as a commissioned officer in the National Guard unless he shall have passed such examination as to his physical, moral, and professional qualifications as may be prescribed by the United States and by this code and the regulations issued thereunder.

(b) No person shall be recognized as a commissioned officer of the National Guard and no appointment as such shall become effective until he shall have taken and subscribed an oath of office.

(c) Any person who has been dismissed or dishonorably discharged from the National Guard of this or any other state or from the armed forces of the United States and has not been restored to duty or any commissioned officer who was discharged from the National Guard as a result of the findings of an efficiency examining board or whose resignation from the National Guard was accepted by the Governor at a time when such officer was under arrest or under charges for the commission of an offense punishable by a court-martial shall not be eligible for appointment as a commissioned officer in any force of the National Guard.

History. Acts 1969, No. 50, § 30; A.S.A. 1947, § 11-302.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-62-103. Assignment and transfer.

Commissioned officers and warrant officers may be assigned, reassigned, transferred, or detailed to and from units within the National Guard as prescribed by the laws of the United States and this code and the regulations issued thereunder.

History. Acts 1969, No. 50, § 32; A.S.A. 1947, § 11-304.

Meaning of "this code". See note to § 12-62-102.

12-62-104. Removal.

(a) The Adjutant General of the State of Arkansas shall have the power to remove any officer from the ranks of the Arkansas National Guard who is refused federal recognition in the grade and branch to which he has applied, or who has had federal recognition withdrawn in the grade and branch in which he was formerly recognized.

(b) The Adjutant General may adopt reasonable and necessary regulations as may be necessary to accomplish this purpose.

History. Acts 1989, No. 666, § 1.

SUBCHAPTER 2 — ENLISTED PERSONNEL

SECTION.

12-62-201. Qualifications.

12-62-202. Extension of enlistments.

12-62-203. Discharges.

SECTION.

12-62-204. Dropping from the rolls.

12-62-205. Restoration to duty.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many conflicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

Acts 1985, No. 670, § 11: Apr. 1, 1985.

Emergency clause provided: "It is hereby found and determined by the General Assembly that certain disciplinary provisions of the state military code need to be strengthened; that this act results in the same and should be given effect prior to the 1985 annual training of the military personnel subject to the state military code; that April 1 is a reasonable date to expect that this act will have been passed by both houses and acted upon by the Governor and that a date certain is desirable for the effective date. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after April 1, 1985."

12-62-201. Qualifications.

The qualifications for enlistment and reenlistment, the periods of enlistment, reenlistment, and voluntary extension of enlistment, the period of service, the form of oath to be taken, and the manner and form of transfer and discharge of enlisted personnel of the National Guard shall be those prescribed by the laws and regulations of the United States relating to the National Guard now or hereafter enacted.

History. Acts 1969, No. 50, § 33; A.S.A. 1947, § 11-401.

12-62-202. Extension of enlistments.

The Governor is authorized to extend the period of any enlistment, reenlistment, voluntary extension of enlistment and the period of service of enlisted personnel of the National Guard for a period not to exceed six (6) months after the termination of an emergency declared by him, the General Assembly, or Congress.

History. Acts 1969, No. 50, § 34; A.S.A. 1947, § 11-402.

12-62-203. Discharges.

An enlisted person discharged from service shall receive a discharge in writing in such form as may be prescribed by the Governor.

History. Acts 1969, No. 50, § 37; 1985, No. 670, § 4; A.S.A. 1947, § 11-405.

12-62-204. Dropping from the rolls.

An enlisted person of the National Guard may be dropped from the rolls under such regulations as the Governor may prescribe.

History. Acts 1969, No. 50, § 35; 1985, No. 670, § 4; A.S.A. 1947, § 11-403.

12-62-205. Restoration to duty.

An enlisted person dropped as a deserter may be restored to duty by the Governor and will thereafter serve for such period added to the time served prior to desertion as will amount to the full term for which that person enlisted.

History. Acts 1969, No. 50, § 36; 1985, No. 670, § 4; A.S.A. 1947, § 11-404.

SUBCHAPTER 3 — PAY AND ALLOWANCES**SECTION.**

- 12-62-301. Pay generally.
- 12-62-302. Service on boards, commissions, and courts.
- 12-62-303. Special duty.
- 12-62-304. Pay and expenses — Civil disorders.

SECTION.

- 12-62-305. Pay and care — Service injury or disability.
- 12-62-306. [Repealed.]
- 12-62-307. State employees.
- 12-62-308. Retirement system.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many conflicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage.

Acts 1975, No. 75, § 8: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two-year period; that the effectiveness of this act on July 1, 1975 is essential to the operation of the agency for which the appropriations in this act are provided, and that in the

event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1975 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1975, No. 747, § 2: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the employees, technicians and other contract personnel of the Arkansas National Guard should be afforded the same privileges as other state employees to be able to be included within membership of the Arkansas State Employees Retirement System. Therefore an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1975."

Acts 1995, No. 1102, § 5: April 10, 1995.

Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that certain employees of the Arkansas National Guard failed to receive full credit service for their service time with the State of Arkansas; that this failure was due to an oversight on the part of the State of Arkansas and not through any fault of the National Guard employees

affected; and that this situation in inequitable for the National Guard technicians and site contract employees involved. Therefore, in order to correct this inequitable situation, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

12-62-301. Pay generally.

Each officer, warrant officer, and enlisted person ordered for duty by the Governor or under his authority by the commanding general of the National Guard shall be paid by the state for every day actually on duty the same basic pay as officers and enlisted personnel of the armed forces of the United States of equal grade, rating, and length of service and such allowances as may be authorized in regulations issued in accordance with the provisions of this code or at a flat daily rate of forty dollars (\$40.00) for each day of twenty-four (24) hours or less actually spent on active duty, whichever is greater. However, officers and enlisted personnel shall not receive from the state the pay and allowances provided by this section when ordered on duty thereunder in compliance with instructions from the federal government for services for which they are to receive pay and allowances from federal funds.

History. Acts 1969, No. 50, § 184; 1981, No. 407, § 1; A.S.A. 1947, § 11-901.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-62-302. Service on boards, commissions, and courts.

(a) Members of boards and commissions created by this code and all military personnel, detailed to serve on any board or commission ordered by the Governor, or under his authority by the commanding general of the National Guard, or on any court of inquiry, court-martial, or summary court, ordered by proper authority in pursuance of any provision of this code, shall be paid for each day actually employed in such board, commission, or court, or engaged in the business thereof, or in traveling to and from the same, and mileage necessarily traveled in going to and returning from such duty shall be allowed.

(b) The pay shall be the same as for officers and enlisted personnel of the armed forces of the United States of equal grade, rating, and length of service, or at a flat daily rate of forty dollars (\$40.00) for each day of

twenty-four (24) hours or less actually spent on active duty, whichever is greater.

(c) Mileage payment shall be allowed for going and returning to serve any process or mandate of a military court, the distance to be computed from the place where it is served to the place where it is returnable.

History. Acts 1969, No. 50, § 186; **Meaning of "this code".** See note to 1981, No. 407, § 2; A.S.A. 1947, § 11-903. § 12-62-301.

12-62-303. Special duty.

(a) Any commissioned officer assigned to special duty by the Governor or under his authority shall be paid for the time actually employed, and his necessary traveling expenses and subsistence, when such payment is authorized by the Governor.

(b) Judge advocates shall be paid, for services and necessary disbursements in bringing any suits provided for in this code and for services in actions or proceedings by habeas corpus, certiorari, or otherwise, such compensation as shall be approved by the Governor.

(c) All staff officers shall be paid for special service ordered by competent authority, with the approval of the Governor.

(d) Enlisted personnel on duty under the orders of the Governor, but not at the time serving with troops, shall receive pay, their actual traveling expenses, and subsistence.

History. Acts 1969, No. 50, § 187; **Meaning of "this code".** See note to A.S.A. 1947, § 11-904. § 12-62-301.

12-62-304. Pay and expenses — Civil disorders.

(a) All expenses incurred while on duty or assembled therefor by order of the Governor, upon the request of either the judge, sheriff of a county, or mayor of a city, in aid of the civil authorities, in case of riot, tumult, breach of peace, or resistance to process of this state, or to preserve the public health and safety; all expenses incurred in connection with such duty or as a result thereof, including quartering, caring for, warning for duty, and transporting and subsisting the troops; and all other expenses, including the expense incurred for pay, care, and subsistence of officers and enlisted personnel temporarily disabled in the line of duty, while on such duty, shall be paid by the county or city at the request of whose judge, sheriff, or mayor, as the case may be, the military forces of the state have been ordered out.

(b) If troops on duty in aid of the civil authorities render service in more than one (1) county or city, the expenses and compensation of the troops shall be apportioned among counties or cities in which the service is rendered by the officer who approves the vouchers and payrolls for such expenses and compensation, certified by the officers commanding the forces, and approved by the Governor. The Governor

shall allow the expenses and direct that the claims be paid to the forces ordered to duty out of the general revenue of the county or city, as the case may be. However, where the troops are called out by the Governor to aid in the prevention or suppression of contagious diseases or other causes where the entire state is involved, the expenses shall be paid by the state.

(c) Any county treasurer or public officer who neglects or refuses to perform any of the duties required by this section shall be personally charged with the costs and all necessary disbursements of any action or proceeding brought to compel such performance, together with a reasonable additional allowance to the plaintiff or relator in the action or proceeding, to be fixed by the court.

History. Acts 1969, No. 50, § 185;
A.S.A. 1947, § 11-902.

12-62-305. Pay and care — Service injury or disability.

Members of the Arkansas National Guard or militia, during the period in which they are in the active service of the state pursuant to orders of the Governor as provided by law, shall be entitled to coverage and benefits of the workers' compensation law for state employees, §§ 19-10-101 — 19-10-103, 19-10-202 — 19-10-210, and 19-10-401 — 19-10-406.

History. Acts 1969, No. 50, § 189;
A.S.A. 1947, § 11-906.

12-62-306. [Repealed.]

Publisher's Notes. This section, concerning uniform allowances, was repealed by Acts 1989, No. 667, § 1. The section was derived from Acts 1969, No. 50, § 188; A.S.A. 1947, § 11-905.

12-62-307. State employees.

Any member of the Arkansas National Guard who is also an employee of the State of Arkansas and is called to state military active duty and receives compensation therefor shall not be deemed to be receiving compensation in an amount greater than that established by the General Assembly as the maximum annual salary for the employee as provided in § 21-5-101(b)(3).

History. Acts 1975, No. 75, § 5.

12-62-308. Retirement system.

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System is authorized to enter into agreements with the National Guard Bureau, or the appropriate federal agency, for including within the membership of the Arkansas Public Employees' Retirement System,

as created by § 24-4-103, technicians employed by the Arkansas National Guard under authority of 32 U.S.C. § 709 and those contract personnel hired as state employees in accordance with the provisions of 10 U.S.C. § 2304(a)(10) [repealed].

(b) The Arkansas National Guard may pay the employer's share to the retirement system, or any part of the employer's contributions and interest, for credited service not credited to the employee by the Arkansas Public Employees' Retirement System from June 8, 1961, to July 1, 1975.

(c)(1) Any employee of the National Guard included within the membership of the Arkansas Public Employees' Retirement System who was employed by the National Guard under the authority of 32 U.S.C. § 709, on July 1, 1961, shall be given credit for prior service rendered as an employee of the National Guard under the authority of 32 U.S.C. § 709, prior to July 1, 1957, if so employed by the National Guard on that date.

(2) Proof of such prior service shall be in such form as shall be required by the board of trustees.

(d)(1) Arkansas National Guard technicians and site contract employees covered under the provisions of this section who have not received full credited service for their service time with the Arkansas National Guard from June 8, 1961, until July 1, 1975, may apply for and receive current service credit for service rendered as a full-time technician or site contract employee between June 8, 1961, and July 1, 1975.

(2) The employee shall receive credit only if the employee pays, or causes to be paid, to the Arkansas Public Employees' Retirement System Fund all necessary employer contributions and employee contributions that would have been paid had the employee been a member of the system during that time, together with interest thereon at the rate of six percent (6%) compounded annually from the date the contributions would have been paid until the payment is received by the system.

(3) The Arkansas National Guard may pay all or any part of the employer contributions and interest required.

History. Acts 1961, No. 47, §§ 1, 2; 1975, No. 747, § 1; A.S.A. 1947, §§ 11-909, 11-910; Acts 1995, No. 1102, § 1.

SUBCHAPTER 4 — PRIVILEGES

SECTION.

12-62-401. Privilege from arrest.

12-62-402. [Repealed.]

12-62-403. Exemption from civil process.

12-62-404. Civil or criminal liability for acts in scope of duty.

SECTION.

12-62-405. Immunity of medical personnel from malpractice suits.

12-62-406. Stay of proceedings.

12-62-407. Exemption from traffic laws.

12-62-408. Penalty for interference.

SECTION.

- 12-62-409. Free passage over toll bridges and ferries.
- 12-62-410. Exemption from automobile tags, road taxes, and duties.
- 12-62-411. Recordation of certificate of discharge.
- 12-62-412. Molestation of guard while on duty — Penalty.

SECTION.

- 12-62-413. Employment protection for members of National Guard or militia.
- 12-62-414. Extensions for renewing certain documents — Paying certain fees.

Effective Dates. Acts 1943, No. 147, § 4: effective on passage. Emergency declared. Approved Mar. 4, 1943.

Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many conflicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

Acts 1977, No. 86, § 4: Jan. 31, 1977. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that physicians, dentists, nurses, pharmacists, or other medical, dental, or nursing personnel should not be held personally liable for the performance of their official duties while engaged in official service as a member of the Arkansas National Guard, and that persons seeking remedies therefor should seek such remedies under the appropriate federal law or by filing a claim against the state, depending upon whether the service in the National Guard was on federal service on state service, and that the immediate passage of this act is necessary to clarify the law in this respect and thereby encourage medical, dental, and nursing personnel to engage in official service in the Arkansas National Guard. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

12-62-401. Privilege from arrest.

The organized militia shall be privileged from arrest during their attendance at muster and attendance at drills and in going to and returning from attendance at muster and drills in all cases except treason, felony, and breach of the peace.

History. Acts 1969, No. 50, § 190; A.S.A. 1947, § 11-1001.

Cross References. Privilege from arrest, Ark. Const., Art. 11, § 3.

12-62-402. [Repealed.]

Publisher's Notes. This section, concerning exemption from jury duty, was repealed by Acts 1997, No. 484, § 1. The

section was derived from Acts 1969, No. 50, § 195; A.S.A. 1947, § 11-1006.

12-62-403. Exemption from civil process.

No person belonging to the organized militia shall be served with any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

History. Acts 1969, No. 50, § 191;
A.S.A. 1947, § 11-1002.

12-62-404. Civil or criminal liability for acts in scope of duty.

(a) Members of the militia ordered into the active service of the state by any proper authority shall not be civilly or criminally liable for any act or acts done by them in the performance of their duty.

(b)(1) When an action or proceeding of any nature shall be commenced in any court by any person against any member of the militia for any act done by such officer in his official capacity in the discharge of any duty under this code or an alleged omission by him to do an act which it was his duty to perform or against any person acting under the authority or order of any such officer or by virtue of any warrant issued by him pursuant to law, the defendant may require the person instituting or prosecuting the action or proceeding to file security for the payment of costs that may be awarded to the defendant therein, and the defendant in all cases may make a general denial and give the special matter in evidence.

(2) A defendant, in whose favor a final judgment is rendered in an action or a final order is made in a special proceeding, shall recover treble costs.

(c)(1) If any member of such forces is prosecuted by criminal action for any act performed or committed by such member while in the performance of military duty, all the expense of the defense of such action, including attorney's fees, witnesses' fees for the defense, defendant's court costs, and all costs for transcripts of records and abstracts thereof on appeal by the defense shall be paid by the state if:

(A) The Attorney General of the state shall be first consulted and approve the selection of the attorney for the defense;

(B) The Attorney General may, if he sees fit, assume the responsibility for the defense of such member and conduct the defense personally or by any one or more of his assistants.

(2) The expense of the defense, when not assumed by the Attorney General, shall be paid by the Adjutant General from funds appropriated to him upon vouchers and bills approved by the Attorney General.

History. Acts 1969, No. 50, § 197;
A.S.A. 1947, § 11-1008.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205,

12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed], 12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-

64-414, 12-64-501 — 12-64-526, 12-64-601
— 12-64-609, 12-64-701 — 12-64-713, 12-
64-801 — 12-64-844.

12-62-405. Immunity of medical personnel from malpractice suits.

(a) No physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel, including medical and dental technicians, nursing assistants, and therapists, of the Arkansas National Guard shall be liable for damages for personal injury, including death caused by negligence or wrongful acts or omission of any such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel, including medical and dental technicians, nursing assistants, and therapists, while acting within the scope of his duties while on official duty as a member of the Arkansas National Guard.

(b) Any person seeking damages therefor shall seek the remedies provided against the United States by 28 U.S.C. § 1346(b), if the cause of action arose while the member of the National Guard was in federal service, or by filing a claim against the State of Arkansas if the alleged acts were performed by members of the Arkansas National Guard while on official state service.

History. Acts 1977, No. 86, § 1; A.S.A. 1947, § 11-1008.1.

A.C.R.C. Notes. As enacted by Acts 1997, No. 86, § 1, subsection (b) between "United States by" and "if the cause" read: "Sections 1346(b) and 2472 of Title 28 of

the United States Code (Public Law 9-464)." The public law referred to does not exist and Title 28 of the United States Code does not contain a § 2472.

Cross References. Claims against state, § 19-10-101 et seq.

12-62-406. Stay of proceedings.

All lawsuits pending in any court of this state in which any attorney for either party or any party is a member of the reserve components of the armed forces and who has been ordered to a period of active duty in the armed forces of the State of Arkansas or of the United States, pursuant to a written order issued by the authority of the President of the United States or the Governor of the State of Arkansas, upon written notice to the parties and the court, shall be stayed for a period of not less than fifteen (15) days preceding the period of active duty and for thirty (30) days following the period of active duty, unless for a time less as requested by the party or attorney. The proceedings shall be stayed without regard to the number of other attorneys also representing parties litigant. Judgments, decrees, sentences, or fines rendered or imposed in violation hereof after written notice for continuance has been filed hereunder shall be void and unenforceable.

History. Acts 1969, No. 50, § 198; A.S.A. 1947, § 11-1009; Acts 1991, No. 965, § 3.

A.C.R.C. Notes. Acts 1991, No. 965, § 1, contained a preamble which read:

"The General Assembly finds that current law provides for continuances for members of the active militia who are parties or attorneys in lawsuits pending before the courts of this state and are called to

active duty in service to the state, or to annual training, but there is no provision for continuances for members of the other reserve components of the armed forces, or for continuances where a soldier is called to active duty for purposes other than annual training."

Acts 1991, No. 965, § 2, provided "The

purpose of this act is to authorize a stay of proceedings in the courts of this state when a member of the reserve components of the armed forces, who is a party or attorney in the proceedings, is ordered to active duty pursuant to a written order."

RESEARCH REFERENCES

UALR L.J. Survey — Civil Procedure,
14 UALR L.J. 747.

12-62-407. Exemption from traffic laws.

The military forces of the organized militia with official insignia displayed, while on authorized duty, shall not be restricted by municipal traffic regulations. They shall have the right of way on any street or highway through which they may pass against all, except carriers of the United States mail, fire engines, police vehicles, and hospital ambulances in the necessary performance of their respective duties.

History. Acts 1991, No. 732, §§ 1-4, 6,
7.

12-62-408. Penalty for interference.

All others who shall hinder, delay, or obstruct any unit or portion of the organized militia wherever parading or performing any military duty, or who shall attempt to do so, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than fifty dollars (\$50.00).

History. Acts 1969, No. 50, § 193;
A.S.A. 1947, § 11-1004.

12-62-409. Free passage over toll bridges and ferries.

Any person belonging to the organized militia shall, together with the conveyance in his charge and property of the state in his charge, be allowed to pass free through all tollgates and over all ferries if he is in uniform or presents an order for duty or certificate of an order for duty.

History. Acts 1969, No. 50, § 194;
A.S.A. 1947, § 11-1005.

12-62-410. Exemption from automobile tags, road taxes, and duties.

(a) In lieu of state and city automobile tags, each active member of the Arkansas Army National Guard and the Air National Guard shall be required to affix to their respective automobile or pick-up truck, if used as personal conveyance and not used for commercial purposes, a

regulation tag to be supplied by the Adjutant General bearing a serial number and a National Guard designation.

(b) They shall likewise be exempt from the payment of any road tax and from any road duty whatsoever under the laws of this state.

History. Acts 1969, No. 50, § 195;
A.S.A. 1947, § 11-1006.

12-62-411. Recordation of certificate of discharge.

(a) Any resident of the State of Arkansas who was in or called to military or naval service in the Army, Navy, Marine Corps, Coast Guard, Merchant Marine Corps, Women's Army Auxiliary Corps, Women's Auxiliary Volunteer for Emergency Service, Nurses, and all other branches of the armed forces of the United States during World War II, and has been discharged from such service, may present his or her certificate of discharge to the recorder of the county of his or her residence or from which he or she was called to service, and have the same recorded.

(b) It shall be the duty of the recorder in such county to record without charges and to index the discharge in a record book to be kept by him for that purpose.

History. Acts 1943, No. 147, §§ 1, 2; World War I certificates of discharge, see A.S.A. 1947, §§ 11-1705, 11-1706. Acts 1919, No. 304.

Publisher's Notes. As to recording of

12-62-412. Molestation of guard while on duty — Penalty.

(a) Any person who interrupts, molests, or insults by abusive words or behavior, or obstructs any officer or soldier of the organized militia while on duty, either at parade, drill meeting for military improvement, or other military duty may be immediately put and kept under guard by the officer in command until the duty is concluded.

(b) The officer may turn over such person to any peace officer of the city or place where the drill, parade, or meeting is being held, and the peace officer shall thereupon deliver the offender for examination and trial before any court having jurisdiction.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction fined in any sum not less than fifty dollars (\$50.00).

History. Acts 1969, No. 50, § 192;
A.S.A. 1947, § 11-1003.

12-62-413. Employment protection for members of National Guard or militia.

(a) Any person who shall be called by the Governor to active state duty as a member of the Arkansas National Guard or as a member of the militia shall be afforded such employment and reemployment

rights, privileges, benefits, and protections in employment as though that person had been called to active duty in the service of the United States and shall not be denied hiring, retention in employment, promotion, or other incidents or advantages of employment because of any obligation as a member of the Arkansas National Guard or the militia.

(b) In any civil action to enforce the provisions of this section, the prevailing party may be allowed a reasonable attorney's fee to be assessed by the court and collected as costs.

History. Acts 1993, No. 925, § 1; 1993, No. 1036, § 1.

12-62-414. Extensions for renewing certain documents — Paying certain fees.

(a) A member of the National Guard or reserve component of the armed forces of the United States who is a resident of this state and who is ordered to active duty to a duty station located outside of this state shall be allowed an extension for:

(1) Renewing a state:

- (A) License;
- (B) Permit;
- (C) Registration;
- (D) Credential; or
- (E) Certificate; and

(2) Paying state:

- (A) Taxes;
- (B) Fees;
- (C) Assessments; or
- (D) Tuition.

(b) The extension shall be allowed without penalty or assessment of a late fee.

(c) The extension shall be effective for:

(1) The period that the service member is serving on active duty at a duty station located outside of this state; and

(2) A period of at least ninety (90) days and not more than one (1) year after the service member is released from active duty.

(d)(1) Each department, division, office, board, commission, and institution of this state, including state-supported institutions of higher education, shall promulgate regulations to establish the length of the extension.

(2) The extension established by regulation shall be within the limits provided by this section.

History. Acts 2003, No. 996, § 1.

SUBCHAPTER 5 — ARKANSAS NATIONAL GUARD STUDENT LOAN REPAYMENT PROGRAM OF 1995

SECTION.

12-62-501. Legislative findings.
 12-62-502. Definitions.
 12-62-503. Arkansas National Guard
 Student Loan Repayment
 Program.

SECTION.

12-62-504. Application process.
 12-62-505. Regulations.

A.C.R.C. Notes. Pursuant to § 1-2-207, this subchapter is set out as enacted by Acts 1995, No 265. This subchapter was also enacted by Acts 1995, No. 187, § 1-5, to read as follows:

“SECTION 1. Legislative findings.

“(a) The Arkansas General Assembly hereby recognizes that:

“(1) Modern warfare and the corresponding advancements in weapons require a higher level of intelligence and skill and, therefore, a better educated soldier. Minimum enlistment criteria are increasing with the passage of time and the advent of new technology;

“(2) While enlistment incentives have remained the same for Reserve forces, they have steadily declined or have been eliminated for the National Guard;

“(3) States surrounding Arkansas have increased incentives to National Guard members, including tuition exemptions and waivers of out-of-state tuition for qualified active National Guard members;

“(4) Other states have lost National Guard units but, because of Arkansas’ historically high strength, the state has been selected to receive high-priority, high-strength units, actually increasing strength requirements for certain high-readiness units;

“(5) The combined effect of these factors has caused assigned personnel strength relative to authorized strength levels in the Arkansas National Guard to decline steadily since early 1994;

“(6) As educational requirements increase, there are fewer enlistees who can qualify for critical specialties and as officer candidates.

“(b) The Arkansas General Assembly further recognizes that:

“(1) In the absence of additional incentives, Arkansas’ potential enlistees and current members will be attracted to ac-

tive duty or to Reserve or National Guard units in surrounding states;

“(2) While tuition incentives may replace other incentives that have been eliminated and may encourage college-qualified persons to enlist and continue their education, a loan repayment program encourages personal responsibility and long-term commitment to pursuit of educational goals;

“(3) Utilizing a combined program of education loans and tuition incentives for new recruits and education loans for eligible existing members encourages a better-educated population while rewarding bright and responsible young persons for long-term community service in the National Guard;

“(4) An incentive that is targeted as an educational loan repayment has the dual benefit of encouraging and assisting the pursuit of postsecondary education while making enlistment in the Arkansas National Guard more attractive. The program also brings Arkansas’ incentives for enlistment more in parity with surrounding states.

“SECTION 2. Definitions.

“As used in this subchapter, unless the context otherwise requires:

“(1) “Eligible member” means both nonprior service and prior service persons who are otherwise qualified, whether or not currently serving, who are enlisting or extending their enlistment in the Arkansas National Guard for a period of at least six (6) years.

“(2) “High personnel readiness units” means those units with special manpower needs as designated by the Adjutant General of Arkansas pursuant to regulation, based upon the mobilization priority of the unit, the difficulty of attracting, qualifying, and enlisting new members, the ability to maintain acceptable strength

levels within the unit, and such other factors as the Adjutant General may deem appropriate.

“(3) ‘Qualified applicant’ means an eligible member who has met all requirements for enlistment or reenlistment and has enlisted in a position vacancy in a unit designated as a high personnel readiness unit; has a sufficient score to be rated as category IIIA or higher based upon scores on standard military tests (score of 50 or higher on the Armed Services Vocational Aptitude Battery or equivalent); meets and continues to meet Good Soldier or Good Airman criteria as set by the Adjutant General; is a secondary school graduate or is expected to graduate from secondary school within two (2) years; is not currently pursuing a postgraduate degree; is not a permanent civilian technician or member of the active National Guard or Reserve, or extending or enlisting for the purpose of becoming either; and meets the current scholastic criteria of and is currently approved to receive a student loan under any state or federal program approved by the Department of Higher Education, and is, or will be upon approval of such loan, enrolled as a full-time student in good standing at an approved institution.

“(4) ‘Approved institution’ means an Arkansas public or private postsecondary institution that is accredited or has achieved candidacy status from the North Central Association’s Commission on Institutions of Higher Education or is a technical institute or comprehensive life-long learning center under the supervision of the Vocational and Technical Education Division of the Department of Education.

“SECTION 3. The Arkansas National Guard Student Loan Repayment Program.

“(a) There is hereby established the Arkansas National Guard Student Loan Repayment Program, which shall provide for the repayment of loans secured by qualified applicants who are eligible members of the Arkansas National Guard in amounts of up to one thousand dollars in principal per annum or five hundred dollars (\$500) per semester, plus all related accrued interest, up to a maximum total loan principal of five thousand dollars (\$5,000).

“(1) No payment may be made for any

loan that is in default at the time of application or award.

“(2) Student loan repayment awards must be used at an approved institution.

“(3) Student loan repayment awards are available only for payment toward undergraduate studies, when used at a college or university.

“(4) Eligible members must enlist for at least six (6) years in a unit identified as a ‘high readiness unit’ by the Adjutant General of Arkansas and have completed training and be awarded a Military Occupation Specialty or Air Force Skill Code before payment may be made.

“(b) In order to be eligible for a second or any subsequent semester award, a student must continue in good standing at an approved institution and must continue as a satisfactory participant in a high personnel readiness unit in the Arkansas National Guard, meeting Good Soldier or Good Airman requirements, as certified by his or her unit commander.

“SECTION 4. Application process.

“(a) Qualified applicants for the Arkansas National Guard Student Loan Repayment Program may apply by obtaining an application form, from and signed by his or her unit commander. The application shall include as an attachment a certification by an appropriate officer of the approved institution verifying that the applicant has been accepted or remains in good standing as a full-time student for the school year in which the loan repayment is sought, and must include certification from a qualified lending institution that a loan has been approved and is not in default.

“(b) Qualified applicants must obtain an additional certification from the approved institution verifying his or her continued enrollment as a full-time student in good standing in order to receive the second or any subsequent semester award. Such certification shall be presented to the unit commander within thirty (30) days of the beginning of the semester for which a loan repayment is sought. Verification from a qualified lending institution that loan is in place and not in default must accompany each subsequent certification.

“(c) It shall be the responsibility of the unit to forward complete applications, including recertifications from an approved institution and verifications from the lender, to the Arkansas National Guard

Incentive Officer for processing and payment. Payment shall be made directly to the approved institution, on behalf of and for the benefit of the qualified applicant, in a manner as may be established by regulation of the Adjutant General of Arkansas.

"SECTION 5. Regulations.

"(a) The Adjutant General of Arkansas shall establish, implement, and enforce such administrative rules and regulations as are necessary for implementation of the Arkansas National Guard Student Loan Repayment Program. The regulations shall include criteria for selection from among applicants in those circumstances in which the number of applicants exceeds appropriated funding for the calendar year.

"(b) In establishing regulations relating to academic qualification, certification, recertification, and payment, the Adjutant General shall obtain the advice of the Department of Higher Education.

"(c) To the extent possible, the Department of Higher Education shall include the Arkansas National Guard Student Loan Repayment Program among other existing financial aid programs and shall monitor the program and enforce policies, as necessary, to conform with Department of Higher Education regulations."

Effective Dates. Acts 1995, No. 187, § 9: Feb. 7, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly that the 39th Brigade of the Arkansas National Guard has been designated as an enhanced brigade carrier and will require additional personnel and that the immediate passage of this act is necessary to ensure the enlistment of qualified individuals. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 265, § 9: Feb. 13, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the 39th Brigade of the Arkansas National Guard has been designated as an enhanced brigade carrier and will require additional personnel and that the immediate passage of this act is necessary to ensure the enlistment of qualified individuals. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

12-62-501. Legislative findings.

(a) The General Assembly recognizes that:

(1) Modern warfare and the corresponding advancements in weapons require a higher level of intelligence and skill and, therefore, a better educated soldier. Minimum enlistment criteria are increasing with the passage of time and the advent of new technology;

(2) While enlistment incentives have remained the same for Reserve forces, they have steadily declined or have been eliminated for the National Guard;

(3) States surrounding Arkansas have increased incentives to National Guard members, including tuition exemptions and waivers of out-of-state tuition for qualified active National Guard members;

(4) Other states have lost National Guard units but, because of Arkansas' historically high strength, the state has been selected to receive high-priority, high-strength units, actually increasing strength requirements for certain high-readiness units;

(5) The combined effect of these factors has caused assigned personnel strength relative to authorized strength levels in the Arkansas National Guard to decline steadily since early 1994; and

(6) As educational requirements increase, there are fewer enlistees who can qualify for critical specialties and as officer candidates.

(b) The General Assembly further recognizes that:

(1) In the absence of additional incentives, Arkansas' potential enlistees and current members will be attracted to active duty or to Reserve or National Guard units in surrounding states;

(2) While tuition incentives may replace other incentives that have been eliminated and may encourage college-qualified persons to enlist and continue their education, a loan repayment program encourages personal responsibility and long-term commitment to pursuit of educational goals;

(3) Utilizing a combined program of education loans and tuition incentives for new recruits and education loans for eligible existing members encourages a better-educated population while rewarding bright and responsible young persons for long-term community service in the National Guard; and

(4) An incentive that is targeted as an educational loan repayment has the dual benefit of encouraging and assisting the pursuit of postsecondary education while making enlistment in the Arkansas National Guard more attractive. The program also brings Arkansas' incentives for enlistment more in parity with surrounding states.

History. Acts 1995, No. 187, § 1; 1995, No. 265, § 1.

12-62-502. Definitions.

As used in this subchapter:

(1) "Approved institution" means an Arkansas public or private postsecondary institution that is accredited or has achieved candidacy status from the North Central Association's Commission on Institutions of Higher Education or is a technical institute or comprehensive lifelong learning center under the supervision of the Department of Workforce Education;

(2) "Eligible member" means both nonprior service and prior service persons who are otherwise qualified, whether or not currently serving, who are enlisting or extending their enlistment in the Arkansas National Guard for a period of at least six (6) years;

(3) "High personnel readiness units" means those units with special manpower needs as designated by the Adjutant General pursuant to regulation, based upon:

(A) The mobilization priority of the unit;

(B) The difficulty of attracting, qualifying, and enlisting new members;

(C) The ability to maintain acceptable strength levels within the unit; and

(D) Such other factors as the Adjutant General may deem appropriate; and

(4) "Qualified applicant" means an eligible member who:

(A) Has met all requirements for enlistment or reenlistment and has enlisted in a position vacancy in a unit designated as a high personnel readiness unit;

(B) Has a sufficient score to be rated as category IIIA or higher based upon scores on standard military tests (score of 50 or higher on the Armed Services Vocational Aptitude Battery or equivalent);

(C) Meets and continues to meet Good Soldier or Good Airman criteria as set by the Adjutant General;

(D) Is a secondary school graduate or is expected to graduate from secondary school within two (2) years;

(E) Is not currently pursuing a postgraduate degree;

(F) Is not a permanent civilian technician or member of the active National Guard or Reserve, or extending or enlisting for the purpose of becoming either; and

(G) Meets the current scholastic criteria of and is currently approved to receive a student loan under any state or federal program approved by the Department of Higher Education, and is, or will be upon approval of such loan, enrolled as a full-time student in good standing at an approved institution.

History. Acts 1995, No. 187, § 2; 1995, No. 265, § 2.

12-62-503. Arkansas National Guard Student Loan Repayment Program.

(a) There is established the Arkansas National Guard Student Loan Repayment Program, which shall provide for the repayment of loans secured by qualified applicants who are eligible members of the Arkansas National Guard in amounts of up to one thousand dollars (\$1,000) in principal per annum or five hundred dollars (\$500) per semester, plus all related accrued interest, up to a maximum total loan principal of five thousand dollars (\$5,000).

(b)(1) No payment may be made for any loan that is in default at the time of application or award.

(2) Student loan repayment awards must be used at an approved institution.

(3) Student loan repayment awards are available only for payment toward undergraduate studies, when used at a college or university.

(4) Eligible members must enlist for at least six (6) years in a unit identified as a high readiness unit by the Adjutant General and have completed training and been awarded a military occupation specialty or Air Force skill code before payment may be made.

(c) In order to be eligible for a second or any subsequent semester award, a student must continue in good standing at an approved institution and must continue as a satisfactory participant in a high personnel readiness unit in the Arkansas National Guard, meeting Good Soldier or Good Airman requirements, as certified by his or her unit commander.

History. Acts 1995, No. 187, § 3; 1995, No. 265, § 3.

12-62-504. Application process.

(a)(1) Qualified applicants for the Arkansas National Guard Student Loan Repayment Program may apply by obtaining an application form from, and signed by, his or her unit commander.

(2) The application shall include as an attachment a certification by an appropriate officer of the approved institution verifying that the applicant has been accepted or remains in good standing as a full-time student for the school year in which the loan repayment is sought, and must include certification from a qualified lending institution that a loan has been approved and is not in default.

(b)(1)(A) Qualified applicants must obtain an additional certification from the approved institution verifying his or her continued enrollment as a full-time student in good standing in order to receive the second or any subsequent semester award.

(B) Such certification shall be presented to the unit commander within thirty (30) days of the beginning of the semester for which a loan repayment is sought.

(2) Verification from a qualified lending institution that an approved loan is in place and not in default must accompany each subsequent certification.

(c)(1) It shall be the responsibility of the unit to forward completed applications, including recertifications from an approved institution and verifications from the lender, to the Arkansas National Guard Incentive Officer for processing and payment.

(2) Payment shall be made directly to the approved institution, on behalf of and for the benefit of the qualified applicant, in a manner as may be established by regulation of the Adjutant General.

History. Acts 1995, No. 187, § 4; 1995, No. 265, § 4.

12-62-505. Regulations.

(a)(1) The Adjutant General shall establish, implement, and enforce such administrative rules and regulations as are necessary for implementation of the Arkansas National Guard Student Loan Repayment Program.

(2) The regulations shall include criteria for selection from among applicants in those circumstances in which the number of applicants exceeds appropriated funding for the calendar year.

(b) In establishing regulations relating to academic qualification, certification, recertification, and payment, the Adjutant General shall obtain the advice of the Department of Higher Education.

(c) To the extent possible, the department shall include the Arkansas National Guard Student Loan Repayment Program among other exist-

ing financial aid programs and shall monitor the program and enforce policies, as necessary, to conform with department regulations.

History. Acts 1995, No. 187, § 5; 1995, No. 265, § 5.

SUBCHAPTER 6 — ARKANSAS NATIONAL GUARD TUITION INCENTIVE PROGRAM

SECTION.

12-62-601. Legislative findings.

12-62-602. Definitions.

12-62-603. Established — Eligibility.

SECTION.

12-62-604. Application process.

12-62-605. Regulations.

Effective Dates. Acts 1995, No. 186, § 9: Feb. 7, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the 39th Brigade of the Arkansas National Guard has been designated as an enhanced brigade carrier and will require additional personnel and that the immediate passage of this act is necessary to ensure the enlistment of qualified individuals. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 346, § 9: Feb. 16, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the 39th Brigade of the Arkansas National Guard has been designated as an enhanced brigade carrier and will require additional personnel and that the immediate passage of this act is necessary to ensure the enlistment of qualified individuals. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

12-62-601. Legislative findings.

(a) The General Assembly recognizes that:

(1) Modern warfare and the corresponding advancements in weapons require a higher level of intelligence and skill and, therefore, a better educated soldier. Minimum enlistment criteria are increasing with the passage of time and the advent of new technology;

(2) While enlistment incentives have remained the same for reserve forces, they have steadily declined or have been eliminated for the National Guard;

(3) States surrounding Arkansas have increased incentives to National Guard members, including tuition exemptions and waivers of out-of-state tuition for qualified active National Guard members, in part because these states have lost National Guard units;

(4) Because of Arkansas' historically high strength, the state has been selected to receive high-priority, high-strength units, with strength requirements for critical, high-skill military occupation specialties actually increasing;

(5) The combined effect of these factors has caused assigned personnel strength in the Arkansas National Guard to decline steadily since early 1994;

(6) As educational requirements increase, there are fewer enlistees who can qualify for critical specialties and as officer candidates.

(b) The General Assembly further recognizes that:

(1) In the absence of additional incentives, Arkansas' potential enlistees will be attracted to active duty, reserve, or National Guard units in surrounding states;

(2) Tuition incentives replace other incentives that have been eliminated, while encouraging college-qualified persons to enlist and continue their education;

(3) Such incentives encourage a better-educated population, while rewarding bright and responsible young persons for long-term community service in the National Guard;

(4) An incentive that is targeted as a tuition payment has the dual benefit of encouraging and assisting the pursuit of postsecondary education while making enlistment in the Arkansas National Guard more attractive. The program also brings Arkansas' incentives for enlistment more in parity with surrounding states.

History. Acts 1995, No. 186, § 1; 1995, No. 346, § 1.

12-62-602. Definitions.

As used in this subchapter:

(1) "Approved institution" means an Arkansas public or private postsecondary institution that is accredited or has achieved candidacy status from the North Central Association Commission on Institutions of Higher Education or is a technical institute or comprehensive lifelong learning center under the supervision of the Department of Workforce Education;

(2) "Critical military occupation specialty or Air Force skill code" means a military occupation specialty or skill code that has been designated as critical by the Adjutant General, based upon:

(A) The mobilization priority of the unit;

(B) The difficulty of attracting, qualifying, and filling the specialty;

(C) The ability to maintain acceptable strength levels within the specialty; and

(D) Such other factors as the Adjutant General may deem appropriate;

(3)(A) "Eligible recruit" means both nonprior service persons and prior service persons who are otherwise qualified to enlist in the Arkansas National Guard and who are enlisting in a critical military occupation specialty or Air Force skill code and who have ten (10) years' service or less; and

(B) In-service recruits are not eligible;

(4) "Qualified applicant" means an eligible recruit who:

(A) Has met all requirements for enlistment and has enlisted in a critical military occupation specialty or Air Force skill code;

(B) Has a sufficient score to be rated as category IIIA or higher based upon scores on standard military tests (score of 50 or higher on the Armed Services Vocational Aptitude Battery or equivalent);

(C) Meets and continues to meet Good Soldier or Good Airman criteria as set by the Adjutant General; and

(D) Meets the current scholastic criteria of and is currently enrolled as a full-time student in good standing at an approved institution.

History. Acts 1995, No. 186, § 2; 1995, No. 346, § 2.

12-62-603. Established — Eligibility.

(a)(1) There is hereby established for qualified applicants an Arkansas National Guard Tuition Incentive Program, which shall consist of a one-time award of up to one thousand dollars (\$1,000) per eligible recruit, payable at five hundred dollars (\$500) per semester for two (2) semesters, with payments made directly to the approved institution.

(2) Awards shall be limited to a maximum of three hundred (300) recruits per calendar year.

(3) Tuition incentive awards must be used at an approved institution.

(4) Tuition incentive awards are available only for payment toward undergraduate studies at an approved institution.

(5) Eligible recruits must complete military training and be awarded a military occupation specialty or Air Force skill code before payment may be made.

(b) In order to be eligible for a second semester award, a student must continue in good standing at an approved institution and must continue as a satisfactory participant in the Arkansas National Guard, meeting Good Soldier or Good Airman requirements, as certified by his or her unit commander.

History. Acts 1995, No. 186, § 3; 1995, No. 346, § 3.

12-62-604. Application process.

(a)(1) A qualified applicant for the Arkansas National Guard Tuition Incentive Program may apply by obtaining an application form from, and signed by, his or her unit commander.

(2) The application shall include as an attachment a certification by an appropriate officer of the approved institution, verifying that the applicant has been accepted as a full-time student for the school year in which the incentive is sought.

(b)(1) A qualified applicant must obtain an additional certification from the approved institution, verifying his or her continued enrollment

as a full-time student in good standing, in order to receive the second semester award.

(2) Such certification shall be presented to the unit commander within thirty (30) days of the beginning of the semester for which an incentive is sought.

(c)(1) It shall be the responsibility of the unit to forward complete applications, including recertifications from the approved institutions, to the Arkansas National Guard Incentive Officer for processing payment.

(2) Payment shall be made directly to the approved institution, on behalf of and for the benefit of the qualified applicant, in a manner as may be established by regulation of the Adjutant General.

History. Acts 1995, No. 186, § 4; 1995, No. 346, § 4.

12-62-605. Regulations.

(a)(1) The Adjutant General shall establish, implement, and enforce such administrative rules and regulations as are necessary for implementation of the Arkansas National Guard Tuition Incentive Program.

(2) The regulations shall include criteria for selection from among applicants in those circumstances in which the number of applicants exceeds three hundred (300) per calendar year.

(b) In establishing regulations relating to academic qualification, certification, recertification, and payment, the Adjutant General shall obtain the advice of the Department of Higher Education.

History. Acts 1995, No. 186, § 5; 1995, No. 346, § 5.

SUBCHAPTER 7 — ARKANSAS SOLDIERS' AND AIRMEN'S CIVIL RELIEF ACT

SECTION.

- 12-62-701. Title.
- 12-62-702. Findings.
- 12-62-703. Purpose.
- 12-62-704. Applicability.
- 12-62-705. Residential leases.
- 12-62-706. Reopening default judgments.
- 12-62-707. Stay of proceedings.
- 12-62-708. Fines and penalties on contracts.
- 12-62-709. Exercise of rights not to affect future financial transactions.
- 12-62-710. Stay of execution of judgment.

SECTION.

- 12-62-711. Duration of stay.
- 12-62-712. Statutes of limitations affected by military service.
- 12-62-713. Maximum rate of interest for state active military service.
- 12-62-714. Eviction or distress of dependents of state active military service members.
- 12-62-715. Installment contracts.
- 12-62-716. Mortgage foreclosures.
- 12-62-717. Application for relief.
- 12-62-718. Storage liens.

12-62-701. Title.

This subchapter may be referred to as the Arkansas Soldiers' and Airmen's Civil Relief Act.

History. Acts 2003, No. 1003, § 1.

12-62-702. Findings.

(a) Soldiers and airmen of the Arkansas National Guard who are called into active military service for the State of Arkansas are ineligible for civil relief under federal law, namely, the Soldiers' and Sailors' Civil Relief Act of 1940, 50 App. U.S.C. § 501 et seq.

(b) Relief should be provided to the soldiers and airmen when they are called into extended active military service for the State of Arkansas.

History. Acts 2003, No. 1003, § 2.

12-62-703. Purpose.

The purpose of this subchapter is to provide civil relief to soldiers and airmen of the Arkansas National Guard who are called into the extended active military service of the State of Arkansas.

History. Acts 2003, No. 1003, § 3.

12-62-704. Applicability.

This subchapter and the benefits of this subchapter apply to and may be claimed by a soldier, airman, or the spouse of a soldier or airman of the Arkansas National Guard who meets one (1) of the following requirements:

(1) The soldier or airman is ordered into the active military service of the State of Arkansas by the Governor under state law for a period of more than one hundred eighty (180) continuous days; or

(2) The soldier or airman is ordered into the active military service of the State of Arkansas by the Governor under the provisions of Title 32, United States Code, for a period of more than one hundred eighty (180) continuous days.

History. Acts 2003, No. 1003, § 4.

12-62-705. Residential leases.

When a soldier or airman is ordered to active military service of the State of Arkansas for more than one hundred eighty (180) days under § 12-62-704, the soldier or airman, or the spouse of the soldier or airman, is entitled to terminate and cancel the lease for the primary residence of the soldier, airman, or spouse of the soldier or airman as follows:

(1) The airman or soldier, the spouse of the soldier or airman, or his or her attorney-in-fact or lawfully appointed agent shall deliver a written notice to the lessor or the lessor's agent by any manner of mail, courier, or personal delivery accompanied by a written receipt as evidence of delivery;

(2) The notice shall state:

(A) The beginning date, and the ending date if known, that the soldier or airman has been ordered into the military service of the state;

(B) The unit name, address, and telephone number of the soldier's or airman's commanding officer or military superior who may verify the authenticity of the orders and where the soldier, airman, or spouse may be written; and

(C) That the soldier or airman, or spouse of the soldier or airman, claims the benefits of this subchapter and gives notice that his or her residential lease will be terminated as provided by this subchapter; and

(3)(A) The notice shall be accompanied by:

(i) Payment of the current month's rent and any monthly charges regularly assessed as a monthly consideration of the lease; and

(ii) Payment of the next month's rent and any monthly charges regularly assessed as a monthly consideration of the lease that shall accrue through the last day of the next month following the month during which the notice was mailed or delivered.

(B) Any prepaid monthly consideration, security deposit, or other sums held by the lessor may be deducted from the payment amounts.

History. Acts 2003, No. 1003, § 5.

12-62-706. Reopening default judgments.

(a) A default judgment rendered in any civil action against a service member during a period of military service or within thirty (30) days after termination of the military service may be set aside if:

(1) The person was prejudiced by reason of his or her military service in making a defense to the action;

(2) Application by the person or his or her legal representative is made to the court rendering the judgment not later than sixty (60) days after the termination of the military service; and

(3) The application provides enough facts that it appears that the person has a meritorious or legal defense to the action or some part of the action.

(b) Vacating, setting aside, or reversing any judgment because of any of the provisions of this subchapter may not impair any right or title acquired by any bona fide purchaser for value under the judgment.

History. Acts 2003, No. 1003, § 6.

12-62-707. Stay of proceedings.

(a) If at any point during an action or proceeding it appears that a plaintiff or defendant is a service member and in the conduct of the proceedings may be adversely affected by his or her military service, the court may, on its own motion, stay the proceedings.

(b) The court may stay the proceedings if the service member or another person on his or her behalf makes a request in writing to the court, unless the court determines on the record that the ability of the plaintiff to pursue the action or the defendant to conduct his or her defense is not materially affected by reason of his or her military service.

History. Acts 2003, No. 1003, § 7.

12-62-708. Fines and penalties on contracts.

(a) If compliance with the terms of a contract is stayed under this subchapter, a fine or penalty may not accrue by reason of failure to comply during the period of the stay.

(b) If a service member has not obtained a stay and a fine or penalty is imposed for nonperformance of an obligation, a court may relieve enforcement if the service member was in military service when the penalty was incurred and his or her ability to pay or perform was materially impaired.

History. Acts 2003, No. 1003, § 8.

12-62-709. Exercise of rights not to affect future financial transactions.

Application by a service member in military service for, or receipt of, a stay, postponement, or suspension under this subchapter in the payment of any fine, penalty, insurance premium, or other civil obligation or liability may not be used for any of the following:

(1) A determination by any lender or other person that the service member is unable to pay any civil obligation or liability in accordance with its terms;

(2) With respect to a credit transaction between a creditor and a service member:

(A) A denial or revocation of credit by the creditor;

(B) A change by the creditor in the terms of an existing credit arrangement; or

(C) A refusal by the creditor to grant credit to the service member in substantially the amount or on substantially the terms requested; or

(3) An adverse report relating to the creditworthiness of the service member by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

History. Acts 2003, No. 1003, § 9.

12-62-710. Stay of execution of judgment.

Unless the court determines on the record that the ability of the service member to comply with the judgment or order entered or sought is not materially affected by reason of his or her military service, the court may, on its own motion, or upon application to it by the service member or another person on his or her behalf:

(1) Stay the execution of any judgment or order entered against the service member, as provided in this subchapter; and

(2) Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this subchapter.

History. Acts 2003, No. 1003, § 10.

12-62-711. Duration of stay.

(a) Any stay of an action, proceeding, attachment, or execution ordered by any court under this subchapter may be ordered for the period of military service, plus sixty (60) days after its termination or any part of that time period.

(b) Where the service member in military service is a codefendant with others, the plaintiff, with leave of the court, may proceed against the others.

History. Acts 2003, No. 1003, § 11.

12-62-712. Statutes of limitations affected by military service.

The period of military service is not included in computing any period limited by law, rule, or order for bringing an action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any person in military service or by or against his or her heirs, executors, administrators, or assigns, whether the cause of action or the right or privilege to institute the action or proceeding has accrued before or during the period of military service.

History. Acts 2003, No. 1003, § 12.

12-62-713. Maximum rate of interest for state active military service.

(a) An obligation or liability bearing interest at a rate in excess of six percent (6%) per year incurred by a service member in military service before his or her entry into state active military service may not bear interest at a rate in excess of six percent (6%) per year during any part of the period of military service unless, in the opinion of the court and upon application to the court by the obligee, the ability of the service member to pay interest on the obligation or liability at a rate in excess of six percent (6%) per year is not materially affected by reason of his or her service.

(b) The court may make any order in the action that, in its opinion, is just.

History. Acts 2003, No. 1003, § 13.

12-62-714. Eviction or distress of dependents of state active military service members.

(a)(1) Except as provided in subdivision (a)(2) of this section, a landlord may not evict or take and hold property of a service member or his or her dependents for nonpayment of rent during the service member's period of military service if the rent on the premises occupied by the service member or his or her dependents is less than one thousand two hundred dollars (\$1,200) per month.

(2) If the landlord petitions the court for an order affecting the service member or his or her dependent's right of possession, then a court may allow the landlord to evict and hold the property of a service member or his or her dependents under this subdivision (a)(2).

(b) In any action affecting the right of possession, the court on its own motion may stay the proceedings for not longer than three (3) months or make any order the court determines to be reasonable and just under the circumstances unless the court finds that the ability of the tenant to pay the agreed rent is not materially affected by reason of the service member's military service.

(c) When a stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application, to relief with respect to the premises to the extent and for any period as the court determines to be just and reasonable under the circumstances.

(d) Any person who knowingly takes part, or attempts to do so, in any eviction or distress otherwise than as provided in subsection (a) of this section is guilty of an unclassified misdemeanor.

(e) The Governor may order an allotment of the pay of a service member in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by any dependents of the service member.

History. Acts 2003, No. 1003, § 14.

12-62-715. Installment contracts.

(a) The creditor of a service member who, before entry into military service, has entered into an installment contract for the purchase of real or personal property shall not terminate the contract or repossess the property for nonpayment or any breach occurring during military service without an order from a court of competent jurisdiction.

(b) The court, upon application to it under this section, unless the court finds on the record that the ability of the service member to

comply with the terms of the contract is not materially affected by reason of his or her military service, may:

(1) Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

(2) Order a stay of the proceedings on its own motion or on a motion by the service member or another person on his or her behalf; or

(3) Make any other disposition of the case it considers to be equitable to conserve the interests of all parties.

(c) Any person who knowingly repossesses property that is the subject of this section other than as provided in subsection (a) of this section is guilty of an unclassified misdemeanor.

History. Acts 2003, No. 1003, § 15.

Fines, § 5-4-201.

Cross References. Misdemeanors,
§ 5-1-107.

Imprisonment, § 5-4-401.

12-62-716. Mortgage foreclosures.

(a) The creditor of a service member who, before entry into military service, has entered into a mortgage contract with the service member or his or her dependent for the purchase of real or personal property may not foreclose on the mortgage or repossess the property for nonpayment or any breach occurring during military service without an order from a court of competent jurisdiction.

(b) The court, upon application under this section, unless the court finds on the record that the ability of the service member to comply with the terms of the mortgage is not materially affected by reason of his or her military service, may:

(1) Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

(2) Order a stay of the proceedings on its own motion or on motion by the service member or another person on his or her behalf; or

(3) Make any other disposition of the case as it considers to be equitable to conserve the interests of all parties.

(c) In order to come within the provisions of this section, the service member or dependent shall establish the following:

(1) The relief is sought on an obligation secured by a mortgage, trust deed, or other security in the nature of a mortgage on either real or personal property;

(2) The obligation originated before the service member's entry into military service;

(3) The property was owned by the service member or his or her dependent before the commencement of military service; and

(4) The property is still owned by the service member or his or her dependent at the time relief is sought.

(d) Any person who knowingly forecloses on property which is the subject of this section other than as provided in subsection (a) of this section is guilty of an unclassified misdemeanor.

History. Acts 2003, No. 1003, § 16.

Fines, § 5-4-201

Cross References. Misdemeanors,
§ 5-1-107

12-62-717. Application for relief.

(a) A person, at any time during his or her period of military service or within sixty (60) days after discharge or termination, may apply to a court for relief in respect of any obligation or liability incurred by the person before his or her period of military service.

(b) The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of the obligation or liability has not been materially affected by reason of his or her military service, may grant the following relief:

(1) In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of the obligation during the applicant's period of military service, and from the date of termination of the period of military service or from the date of application if made after termination of military service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of the combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as the court may consider just; or

(2) In the case of any other obligation or liability, a stay of the enforcement during the applicant's period of military service, and from the date of termination of the period of military service or from the date of application, if made after termination of the period of military service, for a period of time equal to the period of military service of the applicant or any part of that period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or the date of application, in equal periodic installments during the extended period at the rate of interest prescribed for the obligation or liability if paid when due, and subject to other terms the court considers to be reasonable and just.

(c) When any court has granted a stay as provided in this section, a fine or penalty may not be accrued for failure to comply with the terms or conditions of the obligation or liability for which the stay was granted during the period with which the terms and conditions of the stay are complied.

History. Acts 2003, No. 1003, § 17.

12-62-718. Storage liens.

(a)(1) A person may not exercise any right to foreclose or enforce any lien for storage of household goods, furniture, or personal effects of a service member in military service during the service member’s period of military service and for sixty (60) days after termination or discharge, except upon an order previously granted by a court upon application and a return to the court made and approved by the court.

(2) In the proceeding after hearing the matter, unless in the opinion of the court the ability of a service member to pay storage charges due is not materially affected by reason of his or her military service, the court on its own motion may, and shall on application to it by a service member in military service or another person on his or her behalf:

- (A) Stay the proceedings as provided in this subchapter; or
- (B) Make any other disposition the court considers to be equitable to conserve the interest of all the parties.

(b) Any person who knowingly takes any action contrary to the provisions of this section, or attempts to do so, is guilty of a misdemeanor.

History. Acts 2003, No. 1003, § 18. Fines, § 5-4-201.
Cross References. Misdemeanors, Imprisonment, § 5-4-401.
§ 5-1-107.

CHAPTER 63
MILITARY PROPERTY

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. POLICING AND REGULATION.
- 3. ARMORIES, LANDING FIELDS, AND HANGARS.
- 4. CAMP JOSEPH T. ROBINSON.
- 5. MILITARY SERVICE CLUBS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 12-63-101. Reciprocal agreements.
- 12-63-102. Legislative findings of fact.

SECTION.

- 12-63-103. Fort Chaffee Redevelopment Authority Public Trust.

Effective Dates. Acts 1992 (1st Ex. Sess.), No. 55, § 5: Mar. 17, 1992. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that recent natural disasters have created a need for cooperation between the Arkansas National Guard and National Guard units of surrounding states regarding the use of

equipment needed to respond to the emergency situations created by the natural disasters. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

12-63-101. Reciprocal agreements.

The Adjutant General is authorized to enter into reciprocal agreements with the Adjutant General of any surrounding state regarding the loan, lease, or exchange of Arkansas National Guard equipment under his or her authority and control.

History. Acts 1992 (1st Ex. Sess.), No. 55, § 1.

12-63-102. Legislative findings of fact.

(a)(1) The United States Congress has directed the United States Army to close certain military training posts. Fort Chaffee will be operated by the Adjutant General as a reserve component military training facility. Other agencies, departments and political subdivisions of the United States or the State of Arkansas will or have indicated an interest to acquire or occupy portions of Fort Chaffee that are not needed for military purposes.

(2) The Adjutant General is best suited to act as the executive agent of the state to negotiate with the Secretary of the Army and the various tenant agencies for the orderly administration of Fort Chaffee.

(b) It is necessary for the state to amend certain laws concerning military reservations and to authorize particular activities on Fort Chaffee in order to facilitate administration and operation of Fort Chaffee as a military reservation.

History. Acts 1997, No. 1201, § 1.

12-63-103. Fort Chaffee Redevelopment Authority Public Trust.

(a) The State of Arkansas acknowledges and endorses the establishment of the Fort Chaffee Redevelopment Authority Public Trust, created by Sebastian County, on February 19, 1997, as set forth in the Fort Chaffee Redevelopment Authority Indenture of Trust and pursuant to the provisions of the laws of the state, including specifically § 28-72-201 et seq.

(b) The Fort Chaffee Redevelopment Authority Public Trust is recognized by the state as the entity to:

(1) Prepare a comprehensive study of all issues related to the closure and redevelopment of Fort Chaffee Military Base surplus properties and to ensure proper planning and optimal use of the property embodied therein;

(2) Manage, own, and operate such portions of the base as the United States Department of Defense deems unnecessary to its overall military mission so as to yield the maximum benefit to the residents of affected counties and communities in the state after conversion of those portions; and

(3) Act for other purposes as enabled and set forth in the Fort Chaffee Redevelopment Authority Indenture of Trust that are in the public interest and serve a public purpose and can best be accomplished

by the creation of a public trust vested with the powers and duties specified in the Fort Chaffee Redevelopment Authority Indenture of Trust.

History. Acts 1997, No. 1201, § 14.

CASE NOTES

Scope of Authority.

Redevelopment authority created by statute had the sole authority to determine the use of the land for which it was

created, including parts of that land previously annexed by a city. *City of Barling v. Fort Chaffee Redevelopment Auth.*, 347 Ark. 105, 60 S.W.3d 443 (2001).

SUBCHAPTER 2 — POLICING AND REGULATION

SECTION.

- 12-63-201. Definition.
- 12-63-202. Police officers — Appointment — Qualifications — Removal.
- 12-63-203. Police officers — Powers and duties.
- 12-63-204. Police officers — Evidence of authority.
- 12-63-205. Police officers — Liability.
- 12-63-206. Jurisdiction of law enforcement officers.
- 12-63-207. Motor vehicle regulations generally.

SECTION.

- 12-63-208. Violations of motor vehicle regulations.
- 12-63-209. Criminal trespass upon a military reservation — Penalty.
- 12-63-210. Arrest of trespassers.
- 12-63-211. Prohibition of sales, auctions, and gambling.
- 12-63-212. Prosecution of violations — Disposition of fines.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many conflicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

Acts 1979, No. 895, § 13: Apr. 16, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State of Arkansas owns and has a substantial investment in Camp Joseph T. Robinson and the lands and improvements devoted to their functions; that doubts exist concerning the right to

police and regulate certain activities which should be regulated for the protection of lives and property on the Camp Joseph T. Robinson Military Reservation; that urgent reasons exist for providing for the adequate police authority which this enactment will achieve; and that only by the immediate passage of this act may these objectives be achieved. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety and for the protection of the public property, shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 852, § 11: Mar. 28, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Adjutant General's authority to employ police officers for military reservations, and the authority of such police officers, is in need of clarification, and this act is necessary to so provide. Therefore, an emergency is hereby declared to exist and this act, be-

ing immediately necessary for the preservation of the public health, peace, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 2003, No. 1355, § 5: Apr. 15, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Adjutant General has been tasked by the United States and agencies of the State of Arkansas with the responsibility of providing security services and police protection to real properties adjoining military reservations that are owned by or under the control of instrumentalities of the United States and of the State of Arkansas; and that this act is immediately necessary to

preserve domestic peace and provide security in the State of Arkansas due to the increased threats of terrorism in our country since September 11, 2001. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

12-63-201. Definition.

For the purpose of this subchapter, the term “military reservation” shall apply to and encompass all lands, buildings, and improvements used for military training purposes on:

(1) Camp Joseph T. Robinson, both that portion owned by the State of Arkansas and used by the National Guard and that portion owned by the United States, which consists of thirty-one and one-half (31.5) acres more or less, and used by the United States Army Reserve, the United States Navy Reserve, and the United States Marine Corps Reserve;

(2) Properties licensed by the United States to the State of Arkansas to use and occupy for year-round training and support of the Arkansas Air National Guard;

(3) Taxiways, runways, and other airport land and improvements used by military aircraft in conjunction with and adjacent to those properties described in subdivision (2) of this section; and

(4) Fort Chaffee, including that part owned, leased, licensed, operated, maintained, occupied, or controlled by the Adjutant General and that part owned, leased, licensed, operated, maintained, occupied, or controlled by any other component of the active or reserve military forces of the United States, or any other part that is leased, licensed, operated, maintained, occupied, or controlled by any political subdivision, agency, person, firm, corporation, or association for use by the active or reserve military forces of the State of Arkansas and the United States.

History. Acts 1979, No. 895, § 6; 1983, No. 852, § 6; A.S.A. 1947, § 11-1817; Acts 1997, No. 1201, § 3.

12-63-202. Police officers — Appointment — Qualifications — Removal.

(a)(1) The Adjutant General, as custodian of military reservations identified in § 12-63-201, may designate and appoint one (1) or more employees as a police officer or officers for each military reservation, who are peace officers under the laws of this state.

(2) The police officers appointed under this section shall have all the powers provided by law for city police, county sheriffs, and state police officers, to be exercised as required for maintaining the peace, order, the regulation of traffic, and the security of state and federal property on the following:

(A) The military reservation; and

(B) Other real property that:

(i) Adjoins a military reservation;

(ii) Is owned, leased, or is otherwise under the legal control of an instrumentality of the United States or an instrumentality of the State of Arkansas; and

(iii) The Adjutant General of the State of Arkansas has undertaken to provide with police or security services.

(b) All police officers appointed pursuant to this subchapter shall meet the standards and qualifications established by the Arkansas Commission on Law Enforcement Standards and Training created by § 12-9-103.

(c) The Adjutant General shall have the authority to remove such employee or employees from the execution of such designated duties at his or her pleasure, and the termination of employment as a police officer shall forthwith terminate all peace officer authority of such person.

History. Acts 1979, No. 895, §§ 1, 11; 1983, No. 852, §§ 1, 9; A.S.A. 1947, §§ 11-1812, 11-1821; Acts 2003, No. 1355, § 1.

Amendments. The 2003 amendment, added the subsection designations in (a); added (a)(2)(B); in present (a)(1), inserted “the State of” preceding “Arkansas” and substituted “may” for “is authorized and

empowered to” and “who are peace” for “who shall be and are constituted peace”; in (a)(2), substituted “The police officers appointed under this section shall have” for “and shall have” and added “the following added” to the end; and made related changes.

12-63-203. Police officers — Powers and duties.

(a)(1) Except to the extent otherwise limited by the Adjutant General, a police officer appointed under this subchapter shall:

(A) Protect property;

(B) Preserve and maintain proper order and decorum;

(C) Prevent unlawful assemblies and disorderly conduct;

(D) Exclude and eject persons detrimental to the well-being of the military reservation;

(E) Prevent trespasses; and

(F) Regulate the operation and parking of motor vehicles upon and in all of the grounds, buildings, improvements, streets, alleys, and sidewalks of the military reservation.

(2) All of the duties of police officers listed in subdivision (a)(1) of this section apply equally on other real property that has all of the following characteristics:

(A) Adjoins a military reservation;

(B) Is owned, leased, or otherwise under the legal control of an instrumentality of the United States or an instrumentality of the State of Arkansas; and

(C) Is real property upon which the Adjutant General has undertaken to provide police or security services.

(b)(1) The police officer may exercise police supervision on the following:

(A) Military reservations;

(B) Other real property that:

(i) Adjoins a military reservation;

(ii) Is owned, leased, or otherwise under the legal control of an instrumentality of the United States or an instrumentality of the State of Arkansas; and

(iii) Is real property upon which the Adjutant General has undertaken to provide police or security services.

(2) As a peace officer, the police officer may:

(A) Arrest, with or without warrant, any person upon or in the areas described in this subsection who is or is reasonably believed to be committing offense against any law of the State of Arkansas on the military reservation; and

(B) Deliver that person before any court of competent jurisdiction to be dealt with according to law.

(3) The police officer may summon a posse comitatus, if necessary.

History. Acts 1979, No. 895, § 2; 1983, No. 852, § 2; A.S.A. 1947, § 11-1813; Acts 2003, No. 1355, § 2.

Amendments. The 2003 amendment redesignated former (a) as present (a)(1);

added (a)(2); in (a)(1), substituted "under" for "pursuant to the authority contained in"; rewrote (b); and made related changes.

12-63-204. Police officers — Evidence of authority.

(a)(1) Military reservation police officers shall be identified by a shield or badge bearing the name of the military reservation and the words "police officer".

(2) The shield or badge shall be conspicuously worn when the police officer is on duty.

(b) The police officer's authorization shall be further evidenced by a certificate of appointment issued by the Adjutant General and carried on his or her person at all times when on duty.

History. Acts 1979, No. 895, § 1; 1983, No. 852, § 1; A.S.A. 1947, § 11-1812.

12-63-205. Police officers — Liability.

(a) A police officer appointed and designated under this subchapter and any other employees authorized under this subchapter, who perform the duties under this subchapter are not personally liable for injuries to persons or for damage to property that occurs while acting within the scope of their authority on behalf of the State of Arkansas on the military reservation.

(b) A police officer appointed and designated under this subchapter and any other employees authorized under this subchapter who perform the duties under this subchapter are not personally liable for injuries to persons or for damage to property that occurs while acting within the scope of their authority on behalf of the State of Arkansas on other real property that has all of the following characteristics:

(1) Adjoins a military reservation;

(2) Is owned, leased, or otherwise under the legal control of an instrumentality of the United States or an instrumentality of the State of Arkansas; and

(3) Is real property upon which the Adjutant General has undertaken to provide police or security services.

History. Acts 1979, No. 895, § 9; 1983, No. 852, § 8; A.S.A. 1947, § 11-1820; Acts 2003, No. 1355, § 3.

Amendments. The 2003 amendment inserted the subdivision (a) designation and rewrote the subsection; and added (b).

12-63-206. Jurisdiction of law enforcement officers.

(a) The appointment or designation of any police officer or officers under the authority of this subchapter shall not be deemed to supersede in any way the present authority of the Department of Arkansas State Police, that of the county sheriffs, or that of the peace officers of the jurisdiction in which the military reservation or portions thereof shall be located and on other real property that has all of the following characteristics:

(1) Adjoins a military reservation;

(2) Is owned, leased, or otherwise under the legal control of an instrumentality of the United States or an instrumentality of the State of Arkansas; and

(3) Is real property upon which the Adjutant General has undertaken to provide police or security services.

(b) None of the present jurisdiction or powers of the county sheriffs or state police shall be ceded to the police officers or over the land or property or persons on the land.

History. Acts 1979, No. 895, §§ 1, 8; 1983, No. 852, §§ 1, 7; A.S.A. 1947, §§ 11-1812, 11-1819; Acts 2003, No. 1355, § 4.

Amendments. The 2003 amendment, in the introductory language of (a), substituted "Department of Arkansas State Po-

lice" for "state police" and added "and on other real property that has all of the following characteristics"; added (a)(1) through (a)(3); and made minor punctuation changes.

12-63-207. Motor vehicle regulations generally.

(a) The Adjutant General is authorized and empowered to promulgate rules and regulations, and to amend or change them from time to time as he or she shall deem necessary, providing for the operation and parking of motor vehicles upon the grounds, streets, drives, and alleys on the military reservation, including, but not limited to, the following:

- (1) Limiting the rate of speed;
- (2) Assigning parking spaces and designating parking areas and their use or uses;
- (3) Prohibiting parking as he or she deems necessary;
- (4) Removing vehicles parked in violation of the rules and regulations at the expense of the violator who shall pay the expense before the vehicle is released; and
- (5) Instituting a system of motor vehicle registration for the identification and regulation of vehicles regularly using the military reservation premises.

(b) Rules and regulations, together with any amendments thereto, which may from time to time be adopted by the Adjutant General for the regulation of operation and parking of motor vehicles shall be filed with the Secretary of State and shall be printed with copies thereof available at convenient locations at the military reservation or at any separate portion thereof.

(c) Speed limits shall be posted at reasonable intervals, and traffic and parking directions and prohibitions shall be indicated by signs.

(d) From and after the promulgation of the rules and regulations provided for in this section, it shall be unlawful for any person to operate or to park a motor vehicle in violation thereof.

History. Acts 1979, No. 895, §§ 4, 5; 1983, No. 852, §§ 4, 5; A.S.A. 1947, §§ 11-1815, 11-1816.

12-63-208. Violations of motor vehicle regulations.

(a)(1) Persons violating rules and regulations promulgated under § 12-63-207 while using a motor vehicle registered as provided under § 12-63-207(a)(5) shall, at the option of the police officer, be charged under the reservation's system of charges or summoned to appear before any court of competent jurisdiction to be dealt with according to law.

(2) A person adversely affected by any administrative determination as described shall have a right to appeal therefrom to the appropriate district court where the matter shall be heard de novo.

(b) Persons violating military reservation rules and regulations under this section while using a motor vehicle not registered with the military reservation authorities shall be summoned to appear before the appropriate district court.

(c) Notice placed on the vehicle shall be sufficient as a summons for the purpose of this subchapter.

History. Acts 1979, No. 895, § 4; 1983, No. 852, § 4; A.S.A. 1947, § 11-1815.

12-63-209. Criminal trespass upon a military reservation — Penalty.

(a) A person commits the offense of criminal trespass upon a military reservation if he or she purposefully, and without authority, enters upon or remains unlawfully upon any military reservation, military armory, or other military building or property owned, leased, licensed, operated, occupied, maintained, or under the control or management of the State of Arkansas under the control and management of the State Military Department.

(b) Criminal trespass upon a military reservation or other military property is a Class A misdemeanor.

History. Acts 1979, No. 895, § 3; 1983, No. 852, § 3; A.S.A. 1947, § 11-1814; Acts 1995, No. 951, § 1; 1997, No. 1201, § 4.

Cross References. Fines, § 5-4-201. Imprisonment, § 5-4-401.

12-63-210. Arrest of trespassers.

The commanding officer upon any occasion of duty may place under arrest during the continuance thereof any person who shall trespass upon the camp ground, parade ground, armory, or other place devoted to such duty, shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the orderly passage of troops going to or returning from any such duty.

History. Acts 1969, No. 50, § 196; the Military Code of Arkansas. For the A.S.A. 1947, § 11-1007. codification of the Military Code, see note

A.C.R.C. Notes. This section is part of to § 12-60-101.

12-63-211. Prohibition of sales, auctions, and gambling.

The commanding officer may prohibit and prevent the holding of auction or huckster sales, and all gambling within the limits of the post, camp grounds, place of encampment, parade, or drill under his command or within limits not exceeding one (1) mile therefrom as he may prescribe. He may in his discretion abate as common nuisances all such sales.

History. Acts 1969, No. 50, § 196; the Military Code of Arkansas. For the A.S.A. 1947, § 11-1007. codification of the Military Code, see note

A.C.R.C. Notes. This section is part of to § 12-60-101.

12-63-212. Prosecution of violations — Disposition of fines.

(a) The prosecuting attorney shall appear and prosecute all actions arising in any court under the provisions of this subchapter.

(b) All fines which may be collected by any court on account of violations of § 12-63-207 or § 12-63-209 shall be paid into the same

fund as are fines levied for the same or similar violations by the court hearing the matter.

History. Acts 1979, No. 895, § 7;
A.S.A. 1947, § 11-1818.

SUBCHAPTER 3 — ARMORIES, LANDING FIELDS, AND HANGARS

SECTION.

12-63-301. Purchase and construction.
12-63-302. Regulations for use.
12-63-303. Easements.
12-63-304. Renting of currently used ar-

SECTION.

mories — Disposition of
proceeds.
12-63-305. Conveyance or disposal of mil-
itary real property.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many con-

flicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

12-63-301. Purchase and construction.

(a) The Adjutant General is given authority to purchase or construct armories, landing fields, or hangars, in the name of the State of Arkansas for the use and benefit of the Arkansas National Guard, at a place or places in the state as he may deem proper.

(b) To enable the Adjutant General to carry into effect the power and authority conferred upon him, he is given authority to sign rental contracts, employ professional assistance, execute construction contracts and contracts of purchase, and take deeds and contracts of purchase or donations of property for the purposes herein specified in the name of the State of Arkansas for the use and benefit of the Arkansas National Guard.

(c) Authority is granted the Adjutant General, the Treasurer of State, or other appropriate state officer to accept any federal grants or funds which are now or which may hereafter be available for the construction of armories or facilities in this state.

History. Acts 1969, No. 50, §§ 177, 181; A.S.A. 1947, §§ 11-801, 11-805.

12-63-302. Regulations for use.

(a) The Adjutant General shall issue rules and regulations governing the use of armories, landing fields, and hangars acquired under the provisions of this code.

(b) The Adjutant General is authorized to appoint one (1) or more persons at the location of each armory, landing field, or hangar, who shall have charge of such property and govern the use of it in accordance with the rules and regulations issued by the Adjutant General.

History. Acts 1969, No. 50, § 179; A.S.A. 1947, § 11-803.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-63-303. Easements.

In addition to the foregoing, the Adjutant General, by and with the approval of the Governor, may, when he deems it necessary, grant utilities easements across any and all military reservations under his jurisdiction in such manner and under such conditions as he may impose, provided that the granting of such easements does not impair the use of the military reservation for military purposes.

History. Acts 1969, No. 50, § 183; A.S.A. 1947, § 11-807.

12-63-304. Renting of currently used armories — Disposition of proceeds.

(a) The Adjutant General acting for and on behalf of the Arkansas National Guard shall issue rules and regulations concerning the rental and use of National Guard armories to any person, organization, firm, corporation, or governmental agency for any legal use for short periods of time, the armory or its facilities or portions thereof, provided the renting of the armory does not interfere with its use by the National Guard for training or other military purposes.

(b) All such rentals shall be in writing and shall contain appropriate clauses permitting immediate termination or cancellation of the rental agreement on order of the Adjutant General should the public interest or National Guard purposes necessitate the termination.

(c) No armory or facility shall be rented for less than an amount sufficient to cover all expenses, including custodian fees, utility bills, janitor service, and any repairs occasioned by such use.

(d)(1) Armory funds are those funds derived from the use of the facilities by an individual, agency, or organization other than the official users of the facilities by National Guard units quartered therein. Social meetings for members of a unit and their families, sponsored by the unit, are considered official.

(2) A full and complete record of funds received and disbursed will be maintained by the senior officer of the official using the unit and shall be subject to audit as may be required by the Adjutant General.

(3) The Adjutant General will publish rules and regulations governing the expenditure of such rental funds with a limitation of ten percent (10%) of the annual income limited to unit social purposes.

History. Acts 1969, No. 50, § 180;
1979, No. 422, § 1; A.S.A. 1947, § 11-804.

12-63-305. Conveyance or disposal of military real property.

(a)(1)(A) If the Adjutant General of the State of Arkansas determines that any military reservation, armory, landing field, hangar, or any other estate in real property owned or possessed by the State of Arkansas for the use and benefit of the Arkansas National Guard or the armed forces of the United States is no longer useful or necessary for National Guard or other military purposes, the Adjutant General shall then have authority to sell, convey, or otherwise dispose of the property.

(B) The Adjutant General may sell, convey, or otherwise dispose of property under this section by deed, lease, license, permit, or other instrument executed by him or her on behalf of and in the name of the State of Arkansas.

(C) The Adjutant General shall approve the price, consideration, and other terms and conditions related to the sale, conveyance, or other disposal of property under this section.

(2) The Adjutant General may also enter into agreements with cities, counties, school boards, other political subdivisions of the state, or any other public entity, body, board, commission, agency, or governmental corporation to convey an estate in real property or other improvements formerly used for National Guard purposes to the political subdivision or public entity in the event the Adjutant General determines that the transfer would be in the better interest of the National Guard and the local community, subject to any reversionary interest that may exist with respect to the estate in favor of the State of Arkansas or of the United States.

(3) Any conveyance under this section is subject to the approval of the Secretary of the Army or the Secretary of the Air Force, as the case may be, and in compliance with applicable regulations and instructions.

(b)(1) When and if, in the judgment of the Adjutant General, the use of any parcel of real property or any armory, warehouse, or other improvements thereon located owned by or leased to the State of Arkansas for the use and benefit of the National Guard or any portion thereof is temporarily not required and not necessary for National Guard purposes, the Adjutant General shall have authority to lease or sublease any real property or portion thereof for such a rental and on such terms and conditions and for such a period of time as the Adjutant General shall deem to be in the best interest of the National Guard. The lease

or sublease contract shall be executed by the Adjutant General for and in the name and behalf of the State of Arkansas.

(2) Every lease contract shall contain suitable provision for the immediate suspension or termination of the contract in the event of the occurrence of an emergency rendering the use of the property by the National Guard necessary for its military purposes and may provide for a refund out of the Special Military Fund to the lessee or sublessee of a rental paid in advance for the period covered by the lease during which the lessee or sublessee is by reason of the emergency deprived of the use of the property.

(c)(1)(A) Before the Adjutant General shall lease, rent, sell, convey, or otherwise dispose of any estate in any real property or improvement on the property other than a lease or rental for thirty (30) days or less for the use of real property, buildings, armories, airfields, or other improvements that are temporarily not required for military purposes, he or she shall publish a notice one (1) time in some newspaper published and having a general circulation in the state at least ten (10) days before the date on which the property is offered for conveyance or disposal.

(B) The notice shall describe the estate or property and notify all interested persons that the estate or property will be conveyed or disposed of and of the conditions, terms, time, and place at which bids or requests for proposals shall be received for the estate or property.

(2) Bids or proposals for the conveyance, disposal, purchase, lease, or other disposition of the estate in any real property substantially on the terms specified in the notice shall be received by the Adjutant General at the time and place specified in the notice in the form of open or sealed bids or requests for proposals, as the Adjutant General may direct.

(3) Subject to the Adjutant General's right to reject all bids and proposals, the property shall be conveyed to the person, firm, or corporation submitting the bid or proposal which in the judgment of the Adjutant General, taking into consideration the amount to be paid and the terms and conditions of the conveyance, is most advantageous to the security and interests of the State of Arkansas and the United States.

(d)(1) The purchase price, rental, or other moneys to be paid for the conveyance of the estate or property for a period of more than thirty (30) days under the terms, conditions, and consideration of the conveyance shall be deposited in the State Treasury.

(2) The moneys shall be credited to the Special Military Fund, to be used by the Adjutant General for the purposes of constructing, repairing, or maintaining hangars, armories, or other property held by the State of Arkansas for the use and benefit of its National Guard, subject to any priority interest of the United States in such proceeds.

History. Acts 1969, No. 50, §§ 178, 182; 1977, No. 516, § 1; A.S.A. 1947, §§ 11-802, 11-806; Acts 2003, No. 1094, § 3.

A.C.R.C. Notes. Acts 2003, No. 1094,

§§ 1 and 2 provided: "SECTION 1. Purpose. The purpose of this act is to clarify that the Adjutant General of the State of Arkansas has the authority, acting in the best interests of the security and defense

of the state and of the United States, to convey any estate in military real property of which the Adjutant General is custodian by any lawful method of conveyance upon the terms and conditions as he or she may deem appropriate and subject to the approval of the United States.

“SECTION 2. Findings. The General Assembly finds that:

“(1) The Adjutant General of the State of Arkansas is the custodian of the military reservations and military property of the State of Arkansas;

“(2) The United States retains a reversionary estate in all of the military reservations, and furthermore the United States retains various regulatory interests in and to other military properties located within the State of Arkansas;

“(3) A conveyance of unneeded excess military real properties is subject to the consent of the United States acting by and through the Secretary of the Army or the Secretary of the Air Force;

“(4) The disposal of military real properties property is presently restricted by law to the disadvantage of the best interests of the people of the State of Arkansas;

“(5) The authority of the Adjutant General to convey estates in military real property is unreasonably restricted; and

“(6) The restrictions at law should be removed.”

Amendments. The 2003 amendment rewrote this section.

SUBCHAPTER 4 — CAMP JOSEPH T. ROBINSON

SECTION.

12-63-401. Title accepted.

12-63-402. Adjutant General as custodian.

12-63-403. Lease or sale — Disposition of funds.

12-63-404. Canteen — Establishment and operations.

12-63-405. Canteens and exchanges — Adjutant General's powers and duties.

SECTION.

12-63-406. Canteen — Inventory and sales — Tax exemption.

12-63-407. Canteens — Camp Robinson and Fort Chaffee.

12-63-408. [Repealed.]

12-63-409. Canteen — Use of funds.

12-63-410. Canteen — Conditional termination.

Preambles. Acts 1951, No. 121 contained a preamble which read: “Whereas, An efficient national guard is an integral part of the defense of this state and of the United States, and

“Whereas, Camp Joseph T. Robinson is necessary for training grounds for said National Guard, and

“Whereas, the United States Government, acting by and through the Secretary of Army, under authority of an Act of Congress, approved June 30, 1950, styled and cited as Public Law No. 593, 81st Congress, Second Session, did grant, transfer and convey to the State of Arkansas, all rights, title and interest of the United States of America in and to substantially all of the real property comprising Camp Joseph T. Robinson by deed, said deed being of record in the County of Pulaski, Book Volume No. 447, page 343, and in the County of Faulkner, Book Vol-

ume No. 119, page 571, together with the buildings and improvements thereon, and all appurtenances and utilities belonging or appertaining thereto including a water pipe line to Camp Joseph T. Robinson, said property to be used primarily for training the National Guard, and for other military purposes;

“Now, therefore....”

Acts 1955, No. 381 contained a preamble which read: “Whereas, the State of Arkansas accepted title to Camp Joseph T. Robinson from the federal government for the training of the Arkansas National Guard and for other military purposes, as provided by Act 121 of 1951, and

“Whereas, certain tracts of said Camp Joseph T. Robinson, including area generally known as the Hospital Area, were not originally included in the deed described in said Act 121; and

“Whereas, title to said tracts has now

revested in the United States and it is anticipated that Federal legislation will be introduced authorizing a transfer of title to the property to the State of Arkansas without cost and subject to the same restrictions as that portion transferred under provisions of said Act 121;

"Now, therefore...."

Effective Dates. Acts 1951, No. 121, § 3: Feb. 20, 1951. Emergency clause provided: "In view of the international situation, it is of the utmost importance to the safety of the people of the State of Arkansas and of the United States, that title to Camp Joseph T. Robinson be accepted by the State of Arkansas, and that the rental, leases, and sales from said camp be in turn reinvested in the maintenance and upkeep of said camp to the end that the National Guard shall have adequate facilities for proper training. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall have effect and be in full force from and after its passage and approval."

Acts 1955, No. 381, § 3: Mar. 24, 1955. Emergency clause provided: "In view of the fact that immediate legal control and supervision of all portions of Camp Joseph T. Robinson are of utmost importance in preservation and security of government property located therein, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health, and safety, shall have effect and be in full force from and after its passage and approval."

Acts 1977, No. 489, § 9: Mar. 18, 1977. Emergency clause provided: "It has been found and determined by the General Assembly that Camp Joseph T. Robinson, a former United States Military Reservation, now operated by the State of Arkansas, is necessary for the training and maintaining of an efficient Arkansas National Guard as an integral part of the defense of this state and of the United States and that the immediate passage of this act is necessary to increase and maintain the morale and efficiency of the entire National Guard. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and welfare, shall be in effect from and after the date of its passage and approval."

Acts 1983, No. 137, § 4: Feb. 10, 1983.

Emergency clause provided: "It is hereby found and determined by the General Assembly that Department of Defense technicians and full-time employees of the Arkansas Military Department and other persons designated by the governing board of the military canteen at Camp Joseph T. Robinson should have the privilege of purchasing at the Camp Robinson Canteen; that present law does not provide such privilege, and this act is immediately necessary to cure such inequity. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 781, § 3: Apr. 7, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is some question concerning the right of dependents of military personnel, Department of Defense technicians and employees of the Arkansas Military Department to make purchases at the military canteen at Camp Joseph T. Robinson; that this Act is designed to assure that such dependents who hold proper identification cards will be permitted to make such purchases and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 732, § 11: Mar. 25, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that conflicting regulations are causing unnecessary expense in the operation of the Camp Joseph T. Robinson Canteen. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 924, § 5: Apr. 7, 1993, and No. 1034, § 5: Apr. 12, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that Camp Joseph T. Robinson operated by the State of Arkansas is necessary for the training and maintaining of an efficient Arkansas National Guard and this act is necessary to

increase and maintain the morale and efficiency of the Arkansas National Guard. Therefore, an emergency is hereby declared to exist and this act being neces-

sary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

12-63-401. Title accepted.

(a) The State of Arkansas accepts title to the property, improvements, and appurtenances situated at Camp Joseph T. Robinson.

(b) The State of Arkansas authorizes the Adjutant General to accept title to, enter into leases, licenses, and operating agreements for, or otherwise acquire on behalf of the State of Arkansas real property, improvements, and appurtenances from the United States upon such terms and conditions as may be mutually agreed between the United States Government and the Adjutant General acting in behalf of the State of Arkansas.

(c) The State of Arkansas authorizes the Adjutant General to accept title to, enter into leases, licenses, and operating agreements for, or otherwise acquire on behalf of the State of Arkansas real property, improvements, and appurtenances adjoining or as an adjunct to Camp Joseph T. Robinson or adjoining or as an adjunct to other real property owned or held by the Adjutant General upon terms and conditions as may be agreed to between the Adjutant General, acting on behalf of the State of Arkansas, and the owner of such real property.

(d) Interests in real property shall not be purchased or acquired by the Adjutant General except by gift or for a consideration of not greater than ten dollars (\$10.00) except upon an appropriation by the General Assembly or with such funds provided from the United States authorized to be expended for such purposes.

(e) The Adjutant General is authorized to establish and operate upon such lands military training and support facilities, canteens, morale, welfare, and recreational facilities, service clubs, and other facilities as may be necessary and proper for military purposes, or which are customary in the military services, and to conduct upon such lands such other activities and operate such facilities as may be ordered by the Governor or be required by law.

(f) Such military training and support facilities, canteens, morale, welfare, and recreational facilities, service clubs, and other facilities as may be established and operated by the Adjutant General shall be operated in accordance with applicable regulations of the United States armed forces, subject to the orders, directions, regulations, and general supervision of the Adjutant General, and subject to such restrictions and requirements as provided by state law governing other military training facilities, recreational facilities, and service clubs operated by the Adjutant General.

History. Acts 1951, No. 121, § 1; 1955, 11-1803; Acts 1993, No. 924, § 1; 1993, No. 381, § 1; A.S.A. 1947, §§ 11-1801, No. 1034, § 1.

12-63-402. Adjutant General as custodian.

(a) The Adjutant General of the State of Arkansas is the custodian of all military property and military reservations located within the State of Arkansas, and which are owned, leased, licensed, operated, occupied, or maintained by the State of Arkansas for the purpose of training the active or reserve military forces of the United States or any of any state.

(b)(1) The Adjutant General is not the custodian of any military property or military reservation which is reserved to the exclusive legislative jurisdiction and sovereignty of the United States or which is reserved to exclusive legislative authority of the United States Secretary of the Army, United States Secretary of the Navy, or United States Secretary of the Air Force, pursuant to the Constitution and laws of the United States.

(2) Specifically, the Adjutant General is not the custodian of Little Rock Air Force Base and Pine Bluff Arsenal, except such parts thereof that are owned, leased, licensed, operated, occupied, or maintained pursuant to a deed, lease, license, or agreement for the exclusive control by the Adjutant General and units of the Arkansas Army National Guard or Arkansas Air National Guard, in accordance with the respective agreements between the Adjutant General and the Secretary of the Army or the Secretary of the Air Force.

(c)(1) The Adjutant General shall not enter into or accept any contract, deed, license, lease, permit, memorandum of understanding, memorandum of agreement, obligation, gift, or donation of any real property whereby the State of Arkansas shall incur or undertake to incur financial liability for or assume financial liability with, or for, or on behalf of an agency or instrumentality of the United States, for such agency's or instrumentality's past or continuing violation or violations of:

(A) The environmental protection laws of the State of Arkansas or of the United States;

(B) The laws, regulations, rules, or orders of the Arkansas Department of Environmental Quality or the United States Environmental Protection Agency; or

(C) Any other law, regulation, rule, or order of any agency and instrumentality of the State of Arkansas or of the United States which is charged with the responsibility of enforcing the environmental law.

(2) This prohibition shall not be applicable if:

(A) The Adjutant General shall be authorized by federal law or regulation to accept such responsibility for remediation of past or continuing violations and the Adjutant General is provided, appropriated, allocated, or apportioned adequate funds from the United States required to remediate such violations;

(B) The Attorney General, after conferring with the Director of the Arkansas Department of Environmental Quality, shall advise the Governor in writing that the potential financial liability of the state

for environmental remediation is de minimus, and if the Governor shall so approve and concur in the Attorney General's advice; or

(C) The laws of the United States prescribe and fix sole financial liability for such violation or violations upon an agency or instrumentality of the United States to the exclusion of the state.

History. Acts 1951, No. 121, § 2; 1955, No. 381, § 2; A.S.A. 1947, §§ 11-1802, 11-1804; Acts 1997, No. 1201, § 5; 1999, No. 1164, § 120.

substituted "Department of Environmental Quality" for "Department of Pollution Control and Ecology" in (c)(1) and in (c)(2)(B); and made stylistic changes.

Amendments. The 1999 amendment

12-63-403. Lease or sale — Disposition of funds.

(a) The Adjutant General shall have authority to lease or sublease property or portions thereto for such rentals, on such terms and conditions, and for such period of time as he or she shall deem to be in the best interest of the National Guard and the State of Arkansas.

(b) The lease or sublease or contracts for sale of property which is not needed for military purposes shall be executed by the Adjutant General for and in the name and behalf of the State of Arkansas.

(c) The contracts or leases shall contain suitable provisions for the immediate termination in the event of the occurrence of an emergency rendering the use of the property for military purposes.

(d) Funds received or derived from leases, rentals, and sales of real property or from severed personal property derived from Camp Joseph T. Robinson shall be used for operations, maintenance, improvements, and personnel costs of Camp Joseph T. Robinson.

(e) Funds received or derived from leases, rentals, and sales of real property or from severed personal property derived from Fort Chaffee shall be used for operations, maintenance, improvements, and personnel costs of Fort Chaffee.

History. Acts 1951, No. 121, § 2; A.S.A. 1947, § 11-1802; Acts 1997, No. 1201, § 6.

12-63-404. Canteen — Establishment and operations.

(a) The Adjutant General, as custodian of military properties and military reservations, is authorized to institute and operate military-type canteens and exchanges similar to those operated by armed forces of the United States on any military reservation, and he or she shall have authority to designate suitable buildings and lands located on a military reservation for such purposes.

(b)(1) Except as otherwise provided in subdivision (b)(2) of this section, every military-type canteen established or operated pursuant to the authority granted under this section shall be subject to similar procedures, policies, limitations, and restrictions governing such canteens and exchanges of the Army and Air Force Exchange Service, as the Adjutant General may deem advisable, necessary, or expedient.

(2)(A) Military canteens and exchanges established or operated pursuant to the authority granted under this section shall not sell, trade, exchange, market, or vend automobiles, household appliances, furniture, building products, motorcycles, and bicycles.

(B) Military canteens and exchanges may contract with one (1) or more automobile rental agencies to provide leased or rented vehicles for use by uniformed service members, trainees, and other temporary residents of military reservations.

History. Acts 1977, No. 489, § 1; 1983, No. 137, § 1; A.S.A. 1947, § 11-1805; Acts 1997, No. 1201, § 7.

12-63-405. Canteens and exchanges — Adjutant General's powers and duties.

(a) The Adjutant General shall have the authority:

(1) To hire and set the salaries or compensation of sufficient employees for the operation of canteens and exchanges;

(2) To enter into contracts or agreements with wholesalers, distributors, or suppliers of inventory items for stocking the canteens and exchanges;

(3) To prescribe a system of bookkeeping, accounting, and auditing procedures for the proper handling of funds derived from the operations of canteens and exchanges; and

(4) To prescribe regulations governing the operation of the canteens and exchanges on military reservations and military properties.

(b) Employees of canteens and exchanges are not subject to the Uniform Classification and Compensation Act, § 21-5-201 et seq.

History. Acts 1977, No. 489, § 2; A.S.A. 1947, § 11-1806; Acts 1997, No. 1201, § 8.

12-63-406. Canteen — Inventory and sales — Tax exemption.

(a) The Adjutant General, acting for and on behalf of the Arkansas National Guard, shall have authority to purchase normally regarded canteen inventory items, subject to the limitations prescribed in § 12-63-404.

(b) The sale of items shall be made only to:

(1)(A) Active and retired members of the Army National Guard and Air National Guard;

(B) Active, retired, and reserve members of the armed forces of the United States;

(C) Department of Defense employees;

(D) Full-time employees of the State Military Department;

(E) Students attending training programs at Camp Joseph T. Robinson or Fort Chaffee;

(F) Contractors and their employees performing work pursuant to a contract with the United States or the State of Arkansas on Camp Joseph T. Robinson or Fort Chaffee; and

(G) Employees of tenant government agencies located on Camp Joseph T. Robinson or Fort Chaffee; and

(2) Dependents of the persons in subdivisions (b)(1)(A)-(G) who hold identification cards evidencing their status, as may be found acceptable to the Adjutant General.

(c) The items sold shall be exempt from the imposition of any taxes levied by the State of Arkansas or by any political subdivision thereof.

History. Acts 1977, No. 489, § 3; 1979, No. 362, § 1; 1983, No. 137, § 2; A.S.A. 1947, § 11-1807; Acts 1987, No. 781, § 1; 1995, No. 521, § 1; 1997, No. 1201, § 9.

Cross References. Sales of alcoholic beverages under the post exchange package permit, § 3-4-703.

12-63-407. Canteens — Camp Robinson and Fort Chaffee.

(a) The General Assembly finds that the Adjutant General is subject to conflicting laws of the State of Arkansas and regulations of the Department of the Army and the National Guard Bureau, requiring the Adjutant General to reconcile conflicting laws and regulations.

(b) The purpose of this section is to eliminate duplicated and conflicting laws, reconcile state law to Department of the Army, Department of the Air Force, and National Guard Bureau regulations, and to reduce operating expenses of the Camp Joseph T. Robinson and Fort Chaffee canteens.

(c) The Adjutant General is authorized to operate the Camp Joseph T. Robinson and Fort Chaffee canteens in accordance with the regulations of the Department of the Army, Department of the Air Force, and the National Guard Bureau governing morale, welfare, and recreation fund activities as he or she may determine to be applicable.

(d)(1) Nothing in this section shall be construed to eliminate the restrictions on the types of goods or services the Camp Joseph T. Robinson and Fort Chaffee canteens may offer for sale, trade, exchange, market, or vend.

(2) This section shall not be construed to expand or broaden the authority of the Camp Joseph T. Robinson and Fort Chaffee canteens to sell goods and services to any person other than to:

(A) Active, retired, and reserve members of the armed services;

(B) Full-time employees of the Arkansas Military Department and Department of Defense;

(C) Employees of contractors performing contracts or services on either Camp Joseph T. Robinson or Fort Chaffee; or

(D) Employees of other government agencies, students, and other tenants of either Camp Joseph T. Robinson or Fort Chaffee.

(e)(1) The Adjutant General shall cause an external annual audit of the Camp Joseph T. Robinson and Fort Chaffee canteens.

(2) The audit shall be conducted by a certified public accountant.

(f) The Adjutant General shall, within ten (10) days of receipt, submit a copy of the annual audits and any other audits of the Camp Joseph T. Robinson and Fort Chaffee canteens conducted in accordance with regulations of the Department of the Army, the Department of the Air Force, and the National Guard Bureau to the Division of Legislative Audit.

History. Acts 1991, No. 732, §§ 1-4, 6, 7; 1997, No. 1201, § 10.

Publisher's Notes. Former § 12-63-407, concerning canteen — annual audit,

was repealed by Acts 1991, No. 732, § 5. The former section was derived from Acts 1977, No. 489, § 4; A.S.A. 1947, § 11-1808.

12-63-408. [Repealed.]

Publisher's Notes. This section, concerning canteen — state regulations, was repealed by Acts 1991, No. 732, § 5. The

section was derived from Acts 1977, No. 489, § 5; A.S.A. 1947, § 11-1809.

12-63-409. Canteen — Use of funds.

All nonappropriated funds derived from the operation of the Camp Joseph T. Robinson and Fort Chaffee canteens shall be used exclusively for improvements on, to, or for Camp Joseph T. Robinson, Fort Chaffee, or any other military reservation, armory, airfield, or for the general welfare of the units and members of the Arkansas National Guard.

History. Acts 1977, No. 489, § 6; A.S.A. 1947, § 11-1810; Acts 1997, No. 1201, § 11.

12-63-410. Canteen — Conditional termination.

(a) If the Adjutant General deems it to be in the best interest of the military forces of this state or of the United States, the Adjutant General may enter into an agreement or agreements with the Army and Air Force Exchange Service for the institution, maintenance, and operation by the Army and Air Force Exchange Service of post exchanges on Camp Joseph T. Robinson or Fort Chaffee, or both.

(b)(1) Upon the execution of the agreement or agreements and the institution by the Army and Air Force Exchange Service of a post exchange on Camp Joseph T. Robinson or Fort Chaffee, the operation of the military-style canteen or canteens, as the case may be, by the Adjutant General, as provided in §§ 12-63-404 — 12-63-409 and this section, shall terminate.

(2) The termination of the operation of one (1) or more canteens shall not mandate that other canteens at other locations be closed.

History. Acts 1977, No. 489, § 8; 1979, No. 362, § 2; A.S.A. 1947, § 11-1811; Acts 1997, No. 1201, § 12.

SUBCHAPTER 5 — MILITARY SERVICE CLUBS

SECTION.

12-63-501. Ebbing Air National Guard
Field.

Cross References. Fort Chaffee military service club, § 3-4-706.

12-63-501. Ebbing Air National Guard Field.

(a) The Adjutant General is authorized to establish and operate a military service club at Ebbing Air National Guard Field.

(b)(1) Any military service club established at Ebbing Air National Guard Field shall be operated at no cost to the State of Arkansas and shall be generally operated in accordance with applicable military regulations of the United States Air Force pertaining to military service clubs, and in accordance with the orders, directions, and general supervision of the Adjutant General.

(2) The laws of the state and the regulations of the Alcoholic Beverage Control Division shall apply to the operation of the military service club.

(3) To the extent there is a conflict between applicable regulations of the United States Air Force pertaining to military service clubs and the laws and regulations of the state, state laws and regulations shall control.

(c) Any military service club established at Ebbing Air National Guard Field shall obtain all requisite state and local permits required for its operation and shall pay any taxes due from its operation to the state and local governments that apply to its operation.

History. Acts 1993, No. 1074, § 1.

CHAPTER 64

MILITARY JUSTICE

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. APPREHENSION AND RESTRAINT.
3. NONJUDICIAL PUNISHMENT.
4. COURTS-MARTIAL.
5. PROCEDURE.
6. SENTENCING.
7. REVIEW OF COURTS-MARTIAL.
8. PUNITIVE ARTICLES.

Effective Dates. Acts 1969, No. 50, § 207: approved Feb. 12, 1969. Emergency clause provided: "Emergency declared to exist. Because the present general laws pertaining to the militia of the state have in many instances become obsolete; in other instances, sections thereof have been in conflict with the laws of the United States; in other cases, many con-

flicting, unworkable and redundant provisions exist; and because the recodification of the laws governing the state militia will correct the foregoing; an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in force and effect on and after its passage."

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 12-64-101. Territorial applicability of the code.
 12-64-102. Jurisdiction to try certain personnel.
 12-64-103. Courts of inquiry.
 12-64-104. Judge advocates and legal officers.
 12-64-105. Oaths — Affidavits.

SECTION.

- 12-64-106. Dismissal of commissioned officers.
 12-64-107. Code to be explained.
 12-64-108. Injury to property — Redress.
 12-64-109. Complaint against superior officer.
 12-64-110. Appropriations — Courts-Martial Fund.

Publisher's Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

12-64-101. Territorial applicability of the code.

(a)(1) This code applies throughout the state.

(2) It also applies to all persons while they are serving outside the state in the same manner and to the same extent as if they were serving inside the state.

(b) Courts-martial and courts of inquiry may be convened and held in units of the organized militia while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

History. Acts 1969, No. 50, § 50; A.S.A. 1947, § 11-605.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-64-102. Jurisdiction to try certain personnel.

(a) Each person discharged from the organized militia who is later charged with having fraudulently obtained his discharge is subject to trial by court-martial hereunder. Upon conviction of that charge, he is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge.

(b) No person who has deserted from the organized militia may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service.

History. Acts 1969, No. 50, § 48; A.S.A. 1947, § 11-603.

Meaning of "this code". See note to § 12-64-101.

12-64-103. Courts of inquiry.

(a) Courts of inquiry to investigate any matter may be convened by the Governor or by any other person designated by the Governor for that purpose, whether or not the persons involved have requested such an inquiry.

(b)(1) A court of inquiry consists of three (3) or more commissioned officers.

(2) For each court of inquiry, the convening authority shall also appoint counsel for the court.

(c)(1) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party.

(2) Any person subject to this code or employed in the division of military affairs, who has a direct interest in the subject of inquiry, has the right to be designated as a party upon request to the court.

(d) Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(e) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(f) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(g) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(h) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(i) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signature of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

History. Acts 1969, No. 50, § 163; **Meaning of "this code".** See note to A.S.A. 1947, § 11-674. § 12-64-101.

12-64-104. Judge advocates and legal officers.

(a)(1) The Governor, on the recommendation of the Adjutant General, shall appoint an officer of the organized militia as State Judge Advocate.

(2) To be eligible for appointment, an officer must be a member of the bar of the highest court of the state and must have been a member of the bar of the state for at least five (5) years.

(b) The Adjutant General may appoint as many assistant state judge advocates as he shall deem necessary, which assistant state judge advocates shall be officers of the organized militia and members of the bar of the state.

(c) The State Judge Advocate or his assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(d) Convening authorities may communicate directly with their staff judge advocates or legal officers in matters relating to the administration of military justice, and the staff judge advocate or legal officer of any command may communicate directly with the staff judge advocate or legal officer of a superior or subordinate command or with the State Judge Advocate.

(e) No person who has acted as member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense in any case may later act as staff judge advocate or legal officer to any reviewing authority upon the same case.

History. Acts 1969, No. 50, § 51; A.S.A. 1947, § 11-606.

12-64-105. Oaths — Affidavits.

(a) The following persons of the organized militia may administer oaths for those purposes of military administration, including military justice, and affidavits may be taken for those purposes before those persons who shall have the general powers of a notary public:

- (1) The State Judge Advocate and all assistant state judge advocates;
- (2) All summary courts-martial;
- (3) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;
- (4) All legal officers;
- (5) The president, law officer, trial counsel, and assistant trial counsel for all general and special courts-martial;
- (6) The president and the counsel for the court of any court of inquiry;
- (7) All officers designated to take a disposition;
- (8) All persons detailed to conduct an investigation; and

(9) All other persons designated by regulations of the Governor.

(b) The signature without seal of any such person, together with the title of his office, is *prima facie* evidence of this authority.

History. Acts 1969, No. 50, § 164;
A.S.A. 1947, § 11-675.

12-64-106. Dismissal of commissioned officers.

(a)(1) If any commissioned officer, dismissed, discharged, or dropped from the rolls by order of the Governor for reason other than sentence of a general court-martial, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed, discharged, or dropped from the rolls, the Governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which he was dismissed, discharged, or dropped.

(2) A court-martial so convened has jurisdiction to try the dismissed, discharged, or dropped officer on those charges; and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged.

(3) The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, discharge, or dropping from the rolls; but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the Adjutant General shall substitute for the dismissal ordered by the Governor a form of discharge authorized for administrative issue.

(b) If the Governor fails to convene a general court-martial within six (6) months from the presentation of an application for trial under this code, the Adjutant General shall substitute for the dismissal ordered by the Governor a form of discharge authorized for administrative issue.

(c)(1) If a discharge is substituted for a dismissal under this code, the Governor alone may reappoint the officer to such commissioned grade and with such a rank as, in the opinion of the Governor, that former officer would have attained had he not been dismissed, discharged, or dropped from the rolls.

(2) The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization and the officer meets all qualifications required to obtain federal recognition in the new grade.

(3) All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

History. Acts 1969, No. 50, § 49;
A.S.A. 1947, § 11-604; Acts 1989, No. 178,
§ 1.

12-64-107. Code to be explained.

(a)(1) Sections 12-60-103, 12-64-102, 12-64-107 — 12-64-109, 12-64-201 — 12-64-207, 12-64-302, 12-64-407, 12-64-408, 12-64-410, 12-64-

509, 12-64-601, and 12-64-801 — 12-64-842 of this code shall be carefully explained to every enlisted member at the time of his enlistment or transfer or induction into, or at the time of his order to duty in or with any of the forces of the organized militia or within thirty (30) days thereafter.

(2) They shall also be explained annually to each unit of the organized militia.

(b) A complete text of this code and of the regulations prescribed by the Governor thereunder shall be made available to any member of the organized militia, upon his request, for his personal examination.

History. Acts 1969, No. 50, § 165; A.S.A. 1947, § 11-676. **Meaning of "this code".** See note to § 12-64-101.

12-64-108. Injury to property — Redress.

(a) Whenever a complaint is made to any commanding officer that willful damage has been done to property of any person or that his property has been wrongfully taken by members of the organized militia, he may, subject to such regulations as the Governor may prescribe, convene a board to investigate the complaint.

(b) The board shall consist of from one (1) to three (3) officers.

(c) For the purpose of that investigation, the board has power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties.

(d)(1) The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders.

(2) The order of the commanding officer directing charges herein authorized is conclusive, except as provided in subsection (f) of this section, on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(e) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military fund of the unit or units of the organized militia to which the offenders belonged.

(f)(1) Any person subject to this code who is accused of causing wilful damage to property has the right to be represented by counsel, to summon witnesses in his behalf, and to cross-examine those appearing against him.

(2) He has the right of appeal to the next-higher commander.

History. Acts 1969, No. 50, § 167; A.S.A. 1947, § 11-678. **Meaning of "this code".** See note to § 12-64-101.

12-64-109. Complaint against superior officer.

Any member of the organized militia who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the Governor or Adjutant General.

History. Acts 1969, No. 50, § 166;
A.S.A. 1947, § 11-677.

12-64-110. Appropriations — Courts-Martial Fund.

(a) There shall be appropriated biennially, for the military department, the sum of three thousand dollars (\$3,000) for the purpose of paying witness fees, process fees, reporters' fees, travel expenses, and other necessary expenses in holding court-martial proceedings provided in this code.

(b) For the foregoing purposes, there is created in the State Treasury a fund to be designated the State Military Department Fund, from which all expenses of courts-martial shall be paid in the amounts and manner prescribed by law.

History. Acts 1969, No. 50, § 170;
A.S.A. 1947, § 11-681.

Meaning of "this code". See note to
§ 12-64-101.

SUBCHAPTER 2 — APPREHENSION AND RESTRAINT

SECTION.

- 12-64-201. Apprehension generally.
- 12-64-202. Apprehension of deserters.
- 12-64-203. Imposition of restraint.
- 12-64-204. Restraint of persons charged with offenses.
- 12-64-205. Reports and receiving of prisoners.

SECTION.

- 12-64-206. Pretrial punishment prohibited.
- 12-64-207. Delivery of offenders to civil authorities.

Publisher's Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

12-64-201. Apprehension generally.

(a) "Apprehension" is the taking of a person into custody.

(b) Any person authorized by this code or by regulations issued pursuant thereto to apprehend persons subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this code, and any peace officer authorized to do so by law may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(c) Commissioned officers, warrant officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein.

History. Acts 1969, No. 50, § 52; A.S.A. 1947, § 11-607.

Meaning of “this code”. Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-64-402 [repealed],

12-64-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-64-202. Apprehension of deserters.

Any civil officer having authority to apprehend offenders upon the laws of the United States or of a state, territory, commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the organized militia and deliver him into the custody of the organized militia. If an offender is apprehended outside the state, his return to the area must be in accordance with normal extradition procedures or reciprocal agreement.

History. Acts 1969, No. 50, § 53; A.S.A. 1947, § 11-608.

12-64-203. Imposition of restraint.

(a)(1) “Arrest” is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits.

(2) “Confinement” is the physical restraint of a person.

(b)(1) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code or through any person authorized by this code to apprehend persons.

(2) A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(c)(1) A commissioned officer or a warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority he is subject by an order, oral or written, delivered in person or by another commissioned officer.

(2) The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(d) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(e) Nothing in this section shall be construed to limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

History. Acts 1969, No. 50, § 54; A.S.A. 1947, § 11-609.

Meaning of "this code". See note to § 12-64-201.

12-64-204. Restraint of persons charged with offenses.

(a) Any person subject to this code charged with an offense under this code shall be ordered into arrest or confinement, as circumstances may require. However, when charged only with an offense normally tried by a summary court-martial, the person shall not ordinarily be placed in confinement.

(b) When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

History. Acts 1969, No. 50, § 55; A.S.A. 1947, § 11-610.

Meaning of "this code". See note to § 12-64-201.

12-64-205. Reports and receiving of prisoners.

(a) No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail, penitentiary, or prison designated under this code may refuse to receive or keep any prisoner committed to his charge when the committing person furnishes a statement signed by him of the offenses charged against the prisoner.

(b) Every commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or of any other jail, penitentiary, or prison designated under this code, to whose charge a prisoner is committed, shall within twenty-four (24) hours after that commitment or as soon as he is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

History. Acts 1969, No. 50, § 56; A.S.A. 1947, § 11-611.

Cross References. Management of local jail populations, § 12-41-503.

Meaning of "this code". See note to § 12-64-201.

12-64-206. Pretrial punishment prohibited.

Subject to § 12-64-604, no person, while being held for trial or the result of a trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence. However, he may be subjected to minor punishment during that period for infractions of discipline and may be required to perform such labor as may be necessary for the policing and sanitation of his living quarters and messing facilities and the area immediately adjacent thereto.

History. Acts 1969, No. 50, § 57;
A.S.A. 1947, § 11-612.

12-64-207. Delivery of offenders to civil authorities.

(a) Under such regulations as may be prescribed under this code, a person on active militia duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery hereunder is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities for his offense, shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

History. Acts 1969, No. 50, § 58; A.S.A. 1947, § 11-613.

Meaning of “this code”. See note to § 12-64-201.

SUBCHAPTER 3 — NONJUDICIAL PUNISHMENT

SECTION.

12-64-301. Nonjudicial punishment generally.

SECTION.

12-64-302. Appeal.

12-64-303. Court-martial not barred.

Publisher’s Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

Effective Dates. Acts 1981, No. 656, § 4: Mar. 23, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that present Arkansas law authorizing summary courts martial for the state’s military personnel does not provide due process and that this act is immediately necessary to provide such process by allowing a full hearing before a general court martial. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 670, § 11: Apr. 1, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that certain disciplinary provisions of the state military code need to be strengthened; that this act results in the same and should be given effect prior to the 1985 annual training of the military personnel subject to the state military code; that April 1 is a reasonable date to expect that this act will have been passed by both houses and acted upon by the Governor and that a date certain is desirable for the effective date. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after April 1, 1985.”

12-64-301. Nonjudicial punishment generally.

(a) Under such regulations as the Governor may prescribe, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose not more than two (2) of the following disciplinary

punishments for minor offenses without the intervention of a court-martial:

(1) Upon officers of his command:

(A) Withholding of privileges for not more than two (2) consecutive weeks;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks; or

(C) If imposed by the Governor, a fine or forfeiture of pay and allowances of not more than one hundred fifty dollars (\$150).

(2) Upon other military personnel of his command:

(A) Withholding of privileges for not more than two (2) consecutive weeks;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than two (2) consecutive weeks;

(C) Extra duties for not more than two (2) consecutive weeks and not to exceed two (2) hours per day, holidays included;

(D) Reduction to next inferior grade if the grade from which demoted was established by the command or an equivalent or lower command;

(E) If imposed upon a person attached to or embarked in a vessel, confinement for not more than seven (7) consecutive days; or

(F) If imposed by an officer exercising summary court-martial jurisdiction over the offender, a fine or forfeiture of pay and allowances of not more than fifty dollars (\$50.00).

(b) However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the armed forces under this subchapter if the member has, before the imposition of the punishment, demanded trial by court-martial in lieu of the punishment.

(c) The Governor may, by regulation, place limitations on the powers granted by this subchapter with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

(d) An officer in charge may, for minor offenses, impose on enlisted members assigned to the unit of which he is in charge such of the punishment authorized to be imposed by commanding officers as the Governor may by regulation specifically prescribe, as provided in subsections (a), (b), and (c) of this section.

(e) Whenever a punishment of forfeiture of pay and allowance is imposed under this section, the forfeiture may apply to pay or allowances becoming due on or after the date that punishment is imposed and to any pay and allowances accrued before that date.

History. Acts 1969, No. 50, § 59; 1981, No. 656, § 1; 1985, No. 670, § 7; A.S.A. 1947, § 11-614.

12-64-302. Appeal.

(a) A person punished under this subchapter who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority.

(b) The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged.

(c) The officer who imposes the punishment, his successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges, and property affected.

History. Acts 1969, No. 50, § 59; 1981, No. 656, § 1; A.S.A. 1947, § 11-614.

12-64-303. Court-martial not barred.

The imposition and enforcement of disciplinary punishment under this subchapter for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable under this subchapter. However, the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

History. Acts 1969, No. 50, § 59; 1981, No. 656, § 1; A.S.A. 1947, § 11-614.

SUBCHAPTER 4 — COURTS-MARTIAL

SECTION.

- 12-64-401. Classifications of courts-martial.
- 12-64-402. Jurisdiction generally.
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Publisher's Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

Cross References. Pay of personnel serving on courts-martial, § 12-62-302.

Effective Dates. Acts 1981, No. 656, § 4: Mar. 23, 1981. Emergency clause provided: "It is hereby found and determined

by the General Assembly that present Arkansas law authorizing summary courts-martial for the state's military personnel does not provide due process and that this act is immediately necessary to provide such due process by allowing a full hearing before a general court-martial. Therefore, an emergency is hereby de-

clared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 670, § 11: Apr. 1, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain disciplinary provisions of the state military code need to be strengthened; that this act results in the same and should be given effect prior to the 1985 annual training of the military personnel subject to the state military code; that April 1 is a reasonable date to expect that this act will have been passed by both houses and acted upon by the Governor and that a date certain is desirable for the effective date. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after April 1, 1985."

Acts 1985 (1st Ex. Sess.), No. 9, § 3: June 22, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 670 of 1985 which amended various provisions of the Arkansas Military Justice Code inadvertently omitted from the law language concerning the rights of persons charged with court-martial offenses; that it is essential that such language be reinstated in order to assure that those persons charged with court-martial offenses receive due process of law; that this act is designed to reinstate the language inadvertently omitted in the 1985 Act and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

12-64-401. Classifications of courts-martial.

There shall be three (3) kinds of courts-martial in each of the forces of the organized militia, namely:

(1) General courts-martial, which shall consist of:

(A) A military judge and any number of members not less than five (5); or

(B) Only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves;

(2) Special courts-martial, consisting of:

(A) Any number of members not less than three (3); or

(B) A military judge and not less than three (3) members; or

(C) Only a military judge, if one has been detailed to the court, and the accused, under the conditions prescribed in subdivision (1)(B) of this section, so requests; and

(3) Summary courts-martial which shall consist of one (1) officer.

History. Acts 1969, No. 50, § 60;
A.S.A. 1947, § 11-615; Acts 1987, No. 125,
§ 1.

12-64-402. Jurisdiction generally.

(a) Each force of the organized militia has court-martial jurisdiction over all persons subject to this code.

(b) The exercise of jurisdiction by one force over personnel of another force shall be in accordance with regulations prescribed by the Governor.

(c) The jurisdiction of the military courts and boards established by this code shall be presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding.

History. Acts 1969, No. 50, §§ 61, 173; A.S.A. 1947, §§ 11-616, 11-684.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-64-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-64-403. Jurisdiction of general courts-martial.

Subject to § 12-64-402, general courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may, under such limitations as the Governor may prescribe, adjudge any of the following punishments:

- (1) A fine of not more than five hundred dollars (\$500) or forfeiture of pay and allowances of not more than five hundred dollars (\$500);
- (2) Confinement with hard labor for not more than two hundred (200) days;
- (3) Dishonorable discharge, bad conduct discharge, or dismissal;
- (4) Reprimand;
- (5) Reduction of enlisted persons to a lower grade; or
- (6) Any combination of these punishments.

History. Acts 1969, No. 50, § 62; 1985, No. 670, § 8; A.S.A. 1947, § 11-617.

Meaning of "this code". See note to § 12-64-402.

12-64-404. Jurisdiction of special courts-martial.

(a) Subject to § 12-64-402, special courts-martial shall have jurisdiction to try persons subject to this code for any offense for which they may be punished under this code.

(b) A special court-martial may adjudge any punishment a general court-martial may adjudge, except dishonorable discharge, dismissal, or confinement with hard labor for more than one hundred (100) days, forfeiture of pay and allowances of more than two hundred dollars (\$200), or a fine of more than two hundred dollars (\$200).

History. Acts 1969, No. 50, § 63; 1985, No. 670, § 8; A.S.A. 1947, § 11-618.

Meaning of "this code". See note to § 12-64-402.

12-64-405. Jurisdiction of summary courts-martial.

(a) Subject to § 12-64-402, summary courts-martial have jurisdiction to try persons subject to this code, except officers and warrant officers, for any offense made punishable by this code.

(b) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto. If objection to a trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial as may be appropriate.

(c) Summary courts-martial may adjudge any of the following punishments:

- (1) Confinement with hard labor for not exceeding twenty-five days;
- (2) A fine of not more than one hundred dollars (\$100); or
- (3) Forfeiture of pay and allowances of not more than one hundred dollars (\$100);
- (4) Reprimand;
- (5) Reduction of enlisted persons to a lower grade; and
- (6) Any combination of these punishments.

History. Acts 1969, No. 50, § 64; 1981, No. 656, § 2; 1985, No. 670, § 8; 1985 (1st Ex. Sess.), No. 9, § 1; A.S.A. 1947, § 11-619.

Meaning of "this code". See note to § 12-64-402.

12-64-406. Convening courts-martial.

(a) General courts-martial may be convened by the Governor.

(b)(1) The commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command may convene special courts-martial.

(2) Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

(c)(1) The commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where the troops on duty, or of a brigade, regiment, wing, group, detached battalion, squadron, company, or other detachment may convene a summary court-martial consisting of one (1) commissioned officer. The proceedings shall be informal.

(2) When only one (1) commissioned officer is present with a command or detachment, he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him.

(3) Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

History. Acts 1969, No. 50, §§ 68-70;
A.S.A. 1947, §§ 11-623 — 11-625.

12-64-407. Service on courts-martial.

(a) Any commissioned officer of or on duty with the organized militia is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Any warrant officer of or on duty with the organized militia is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c)(1)(A) Any enlisted member of the organized militia who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but he shall serve as a member of a court only if before the convening of the court the accused personally has requested in writing that enlisted members serve on it.

(B) After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third ($\frac{1}{3}$) of the total membership of the court unless eligible members cannot be obtained on account of physical conditions or military exigencies.

(C) If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement to be appended to the record stating why they could not be obtained.

(2) In this subsection the word, "unit" means any regularly organized body of the organized militia not larger than a company, a squadron, or a body corresponding to one of them.

(d) When it can be avoided, no person subject to this code shall be tried by a court-martial any member of which is junior to him in rank or grade.

(e) When convening a court-martial, the convening authority shall detail as members thereof such members as in his opinion are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament.

(f) No member is eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

History. Acts 1969, No. 50, § 71; A.S.A. 1947, § 11-626.

Meaning of "this code". See note to § 12-64-402.

12-64-408. President.

(a) If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member of the bar of the state and of appropriate rank, the convening

authority shall appoint him as president of a special court-martial, but only for cases in which there is no military judge.

(b) Although this requirement is binding on the convening authority, failure to meet it in any case does not divest a military court of jurisdiction.

History. Acts 1969, No. 50, § 71;
A.S.A. 1947, § 11-626; Acts 1987, No. 125,
§ 2.

12-64-409. Military judge.

(a) A military judge shall be detailed to each general court-martial. Subject to such regulations as may be adopted by the Governor, a military judge may be detailed to any special court-martial.

(b) The Governor may prescribe regulations providing for the manner in which military judges are detailed for the courts-martial and for the persons who are authorized to detail military judges for the courts-martial. The military judge shall preside over each open session of the court-martial to which he has been detailed.

(c) A military judge shall be a commissioned officer who is a member of the bar of the highest court of a state or a member of the bar of a federal court and who is certified to be qualified for that duty by the State Judge Advocate.

(d) The military judge of a general court-martial shall be designated by the State Judge Advocate or his designee in accordance with such regulations as may be prescribed under subsection (a) of this section.

(e) Neither the convening authority nor any member of his staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed which relates to his performance of duty as a military judge. A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial may perform those duties only when he is assigned and directly responsible to the State Judge Advocate or his designee and may perform duties of a judicial or nonjudicial nature other than those relating to his primary duty as a military judge of a general court-martial when those duties are assigned to him by or with the approval of the State Judge Advocate or his designee.

(f) No person shall be eligible to act as military judge in a case if he is the accuser or a witness for the prosecution or has acted as investigating officer or as a counsel in the same case.

(g) The military judge of a court-martial may not consult with the members of the court, except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court.

History. Acts 1969, No. 50, § 72;
A.S.A. 1947, § 11-627; Acts 1987, No. 125,
§ 3.

12-64-410. Trial and defense counsel.

(a) For each general and special court-martial, the authority convening the court shall detail trial counsel and defense counsel and such assistance as he considers appropriate.

(b)(1) No person who has acted as investigating officer, military judge, or court member in any case may later act as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case.

(2) No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(c) Trial counsel or defense counsel detailed for a general court-martial:

(1) Must be a person who is a member of the bar of the highest court of a state or a member of the bar of a federal court; and

(2) Must be certified as competent to perform such duties by the State Judge Advocate.

(d) In the case of a special court-martial:

(1) If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(2) If the trial counsel is a member of the bar of the highest court of a state, the defense counsel detailed by the convening authority must be likewise qualified.

History. Acts 1969, No. 50, § 73;
A.S.A. 1947, § 11-628; Acts 1987, No. 125,
§ 4.

12-64-411. Reporters — Interpreters.

(a) Under such regulations as the Governor may prescribe, the convening authority of a general or special court-martial or court of inquiry shall detail or employ qualified court reporters who shall record the proceedings of and testimony taken before that court.

(b) Under like regulations, the convening authority of a military court may detail or employ interpreters or other professional experts who shall interpret for and assist the court.

History. Acts 1969, No. 50, § 74;
A.S.A. 1947, § 11-629.

12-64-412. Marshals.

(a) The president of a general and special court-martial and a summary court officer may each appoint by warrant, and at any time remove, one or more marshals.

(b) Each marshal shall perform the usual duties of such marshals and shall execute any process, mandate, or order issued by such president or court or officer and perform all acts and duties by this code

imposed on or authorized to be performed by a sheriff, marshal, or constable.

(c)(1) Each marshal shall, before entering upon his duties, execute a bond to the state in the penal sum of five hundred dollars (\$500), the premium of which shall be paid from the State Military Department Fund with sufficient sureties to be approved by the president of the court or officer appointing him, for the faithful performance of his duties and the prompt payment of all moneys collected by him.

(2) A bond given as herein provided may be prosecuted for breach of the conditions thereof, in the name of the people, by the Attorney General, and all moneys recovered shall be paid to the Military Courts-Martial Fund.

History. Acts 1969, No. 50, § 175; cerning State Military Department Fund.
A.S.A. 1947, § 11-686.

Meaning of "this code". See note to
A.C.R.C. Notes. See § 12-64-110 con- § 12-64-402.

12-64-413. Immunity of court and officers.

No action or proceeding may be prosecuted against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

History. Acts 1969, No. 50, § 172;
A.S.A. 1947, § 11-683.

12-64-414. Absent and additional members.

(a) No member of a general or special court-martial shall be absent or excused after the accused has been arraigned except for physical disability or as a result of a challenge or by order of the convening authority for good cause.

(b)(1) Whenever a general court-martial is reduced below five (5) members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five (5) members.

(2) When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the military judge, the accused, and the counsel.

(c)(1) Whenever a special court-martial is reduced below three (3) members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three (3) members.

(2) When the new members have been sworn, the trial shall proceed as if no evidence has previously been introduced unless a verbatim record of the testimony of previously examined witnesses or a stipula-

tion thereof is read to the court in the presence of the accused and counsel.

History. Acts 1969, No. 50, § 75; A.S.A. 1947, § 11-630; Acts 1987, No. 125, § 5.

SUBCHAPTER 5 — PROCEDURE

SECTION.

- 12-64-501. Statutes of limitations.
- 12-64-502. Charges and specifications.
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Publisher's Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

Effective Dates. Acts 1987 (1st Ex. Sess.), No. 30, § 3; June 12, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that in amending the Military Code during the 1987 Regular Session, some wording was unintentionally left out of a portion of the Military Code; that such error

should be corrected immediately in order to give proper meaning to the section amended; and that this Act will reinsert such unintentionally deleted language. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

12-64-501. Statutes of limitations.

(a) A person charged with desertion or absence without leave in time of war or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(b) Except as otherwise provided in this section, a person charged with desertion in time of peace or with perjury is not liable to be tried by court-martial if the offense was committed more than three (3) years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command.

(c) Except as otherwise provided in this section, a person charged with any offense is not liable to be tried by court-martial or punished by

nonjudicial punishment if the offense was committed more than two (2) years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command or before the imposition of nonjudicial punishment.

(d) Periods in which the accused was absent from territory in which the state has authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

History. Acts 1969, No. 50, § 89;
A.S.A. 1947, § 11-644.

12-64-502. Charges and specifications.

(a) Charges and specifications shall be signed by a person subject to this code under oath before a person authorized by this code to administer oaths and shall state:

(1) That the signer has personal knowledge of, or has investigated the matters set forth therein; and

(2) That they are true in fact to the best of his knowledge and belief.

(b) Upon the preferring of charges:

(1) The proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline; and

(2) The person accused shall be informed of the charges against him as soon as practicable.

History. Acts 1969, No. 50, § 76; A.S.A. 1947, § 11-631.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-64-503. Compulsory self-incrimination prohibited.

(a) No person subject to this code may compel any person to incriminate himself or to answer any question, the answer to which may tend to incriminate him.

(b) No person subject to this code may interrogate or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(c) No person subject to this code may compel any person to make a statement or produce evidence before any military tribunal if the

statement or evidence is not material to the issue and may tend to degrade him.

(d) No statement obtained from any person in violation of this section or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

History. Acts 1969, No. 50, § 77; A.S.A. 1947, § 11-632.

Meaning of "this code". See note to § 12-64-502.

12-64-504. Investigation.

(a)(1) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made.

(2) This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(b)(1) The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel.

(2) Upon his own request, he shall be represented by civilian counsel if provided by him or military counsel of his own selection if such counsel is reasonably available or by counsel detailed by the officer exercising general court-martial jurisdiction over the command.

(3) At that investigation, full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused.

(c) If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides; and a copy thereof shall be given to the accused.

(d)(1) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b) of this section, no further investigation of that charge is necessary under this section unless it is demanded by the accused after he is informed of the charge.

(2) A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.

(e) The requirements of this section are binding on all persons administering this code, but failure to follow them does not divest a military court of jurisdiction.

History. Acts 1969, No. 50, § 78; A.S.A. 1947, § 11-633.

Meaning of "this code". See note to § 12-64-502.

12-64-505. Reference for trial.

(a) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the State Judge Advocate for consideration and advice.

(b) The convening authority shall not refer a charge to a general court-martial for trial unless he has found that the charge alleges an offense under this code and is warranted by evidence indicated in the report of the investigation.

(c) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and such changes in the charges and specifications as are needed to make them conform to the evidence may be made.

History. Acts 1969, No. 50, § 80; A.S.A. 1947, § 11-635.

Meaning of "this code". See note to § 12-64-502.

12-64-506. Forwarding of charges.

When a person is held for trial by general court-martial, the commanding officer shall, within eight (8) days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the Governor. If that is not practicable, he shall report in writing to the Governor the reasons for delay.

History. Acts 1969, No. 50, § 79; A.S.A. 1947, § 11-634.

12-64-507. Service of charges.

(a) The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be held.

(b) In time of peace, no person may, against his objection, be brought to trial before a general court-martial within a period of five (5) days after the service of the charges upon him or before a special court-martial within a period of three (3) days after the service of the charges upon him.

History. Acts 1969, No. 50, § 81; A.S.A. 1947, § 11-636.

12-64-508. Governor may prescribe rules.

The procedure, including modes of proof, in cases before military courts and other military tribunals may be prescribed by the Governor by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the state, but which may not be contrary to or inconsistent with this code.

History. Acts 1969, No. 50, § 82; A.S.A. 1947, § 11-637.

Meaning of "this code". See note to § 12-64-502.

12-64-509. Unlawfully influencing action of court.

(a) No authority convening a general, special, or summary court-martial nor any other commanding officer or officer serving on the staff thereof may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof with respect to the findings or sentence adjudged by the court or with respect to any other exercise of its or his functions in the conduct of the proceeding.

(b) No person subject to this code may attempt to coerce or by any unauthorized means influence the action of the court-martial or any other military tribunal or any member thereof in reaching the findings or sentence in any case or the action of any convening, approving, or reviewing authority with respect to his judicial acts.

History. Acts 1969, No. 50, § 83; A.S.A. 1947, § 11-638; Acts 1987, No. 125, § 6; 1987 (1st Ex. Sess.), No. 30, § 1.

Meaning of "this code". See note to § 12-64-502.

12-64-510. Duties of trial and defense counsel.

(a) The trial counsel of a general or special court-martial shall prosecute in the name of the state and shall, under the direction of the court, prepare the record of the proceedings.

(b)(1) The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him, or by military counsel of his own selection if reasonably available, or by the defense counsel detailed under this code.

(2) Should the accused have counsel of his own selection, the defense counsel and assistant defense counsel, if any, who were detailed shall, if the accused so desires, act as his associate counsel; otherwise, they shall be excused by the president of the court or the military judge.

(c) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters as he feels should be considered in behalf of the accused on review including any objection to the contents of the record which he considers appropriate.

(d)(1) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by this code, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court.

(2) An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by this code, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

History. Acts 1969, No. 50, § 84; A.S.A. 1947, § 11-639; Acts 1987, No. 125, § 7. **Meaning of "this code".** See note to § 12-64-502.

12-64-511. Sessions — Records of proceedings.

(a) Whenever a general or special court-martial deliberates or votes, only the members of the court may be present.

(b) After a general court-martial has finally voted on the findings, the court may request the military judge and the reporter to put the findings in proper form; and those proceedings shall be on the record.

(c) All other proceedings, including any consultation of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge if one is assigned to the case.

History. Acts 1969, No. 50, § 85; A.S.A. 1947, § 11-640; Acts 1987, No. 125, § 8.

12-64-512. Continuances.

A court-martial may, for reasonable cause, grant a continuance to any party for such time and as often as may appear to be just.

History. Acts 1969, No. 50, § 86; A.S.A. 1947, § 11-641.

12-64-513. Challenges.

(a)(1) Members of a general or special court-martial and the military judge of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court.

(2) The court shall determine the relevancy and validity of challenges for cause and may not receive a challenge to more than one (1) person at a time.

(3) Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) Each accused and the trial counsel is entitled to one (1) peremptory challenge, but the military judge may not be challenged except for cause.

History. Acts 1969, No. 50, § 87; A.S.A. 1947, § 11-642; Acts 1987, No. 125, § 9.

RESEARCH REFERENCES

UALR L.J. Note, Peremptory Challenges After *Purkett v. Elam*, 115 S. Ct. 1769 (1995): How to Judge a Book By Its Cover Without Violating Equal Protection, 19 UALR L.J. 249.

12-64-514. Oaths.

(a) The military judge, interpreters, and, in general and special courts-martial, members, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, and reporters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully.

(b) Each witness before a military court shall be examined on oath or affirmation.

History. Acts 1969, No. 50, § 88;
A.S.A. 1947, § 11-643; Acts 1987, No. 125,
§ 10.

12-64-515. Pleas of the accused.

If an accused arraigned before a court-martial makes an irregular pleading, or enters a plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record and the court shall proceed as though he had pleaded not guilty.

History. Acts 1969, No. 50, § 91;
A.S.A. 1947, § 11-646.

12-64-516. Obtaining witnesses and other evidence.

(a) The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the Governor may prescribe.

(b) The military judge, the president of a court-martial, or a summary court officer may:

(1) Issue a warrant for the arrest of any accused person who, having been served with a warrant and copy of the charges, disobeys a written order by the convening authority to appear before the court;

(2) Issue subpoenas duces tecum and other subpoenas;

(3) Enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) Sentence for refusal to be sworn or to answer as provided in actions before civil courts of the state.

(c) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state.

History. Acts 1969, No. 50, § 92;
A.S.A. 1947, § 11-647; Acts 1987, No. 125,
§ 11.

12-64-517. Depositions.

(a)(1) At any time after charges have been signed as provided herein, any party may take oral or written depositions unless an authority

competent to convene a court-martial for the trial of those charges forbids it for good cause.

(2) If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other parties so far as otherwise admissible under the rules of evidence may be read in evidence before any court-martial or in any proceeding before a court of inquiry if it appears:

(1) That the witness resides or is beyond the state in which the court-martial or court of inquiry is ordered to sit or beyond the distance of one hundred (100) miles from the place of trial or hearing;

(2) That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) That the present whereabouts of the witness is unknown.

History. Acts 1969, No. 50, § 95;
A.S.A. 1947, § 11-650.

12-64-518. Issuance of process, subpoenas, etc.

(a) Military courts may issue all process and mandates necessary to carry into effect the powers vested in those courts.

(b) The courts may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records when the courts are sitting within the state and the witnesses, books, and records sought are also located.

(c) Such process and mandates may be issued by summary courts-martial or the president of other military courts and may be directed to and may be executed by the marshals of the military court or any peace officer and shall be in such form as may be prescribed by regulations issued under this code.

(d)(1) All officers to whom such process or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents.

(2) Except as otherwise specifically provided in this code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith.

(e) Any sheriff, constable, jailer, marshal, or other civil officer named in this code, who shall neglect or refuse to obey, execute, or return the lawful warrant or other process of a military court or make a false return thereon, shall be guilty of a misdemeanor and in addition to the penalties attaching thereto, shall forfeit fifty dollars (\$50.00) for each offense or neglect of duty, the money to be recovered in a civil action against the officer and his official sureties by the Attorney General for the benefit of the State Military Department Fund.

History. Acts 1969, No. 50, §§ 169, 176; A.S.A. 1947, §§ 11-680, 11-687.

Cross References. Officer failing to execute process resulting in escape, § 5-

Meaning of "this code". See note to § 12-64-502.

54-127.

12-64-519. Refusal to appear or testify.

Any person not subject to this code is guilty of an offense against the state and may be punished in the same manner as if committed before civil courts of the state if he:

(1) Has been duly subpoenaed to appear as a witness or to produce books and reports before a military court or before any military or civil officer designated to take a deposition to be read in evidence before such a court;

(2) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the circuit court of the state; and

(3) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce.

History. Acts 1969, No. 50, § 93; A.S.A. 1947, § 11-648.

Meaning of "this code". See note to § 12-64-502.

12-64-520. Contempt.

(a) A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

(b) The punishment may not exceed confinement for thirty (30) days or a fine of one hundred dollars (\$100), or both.

History. Acts 1969, No. 50, § 94; A.S.A. 1947, § 11-649.

12-64-521. Admissibility of records of courts of inquiry.

(a) In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the

accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(c) Such testimony may also be read in evidence before a court of inquiry or a military board.

History. Acts 1969, No. 50, § 96;
A.S.A. 1947, § 11-651.

12-64-522. Votes and rulings.

(a)(1) Voting by members of a general or special court-martial upon question of challenge, on the findings, and on the sentence shall be by secret written ballot.

(2) The junior member of the court shall in each case count the votes.

(3) The count shall be checked by the president who shall forthwith announce the result of the ballot to the members of the court.

(b)(1) The military judge of a general or special court-martial and the president of a special court-martial without a military judge shall rule upon interlocutory questions other than challenges arising during the proceedings.

(2) Any such ruling made by the military judge of a general or special court-martial who is a member of the bar of the state upon an interlocutory question of accused's sanity is final and constitutes the ruling of the court. However, the military judge or president may change the ruling at any time during the trial except a ruling on a motion for a finding of not guilty that was granted.

(3) Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in this code beginning with the junior in rank.

(c) Before a vote is taken on the findings, the military judge of a general or special court-martial and the president of a special court-martial without a military judge, in the presence of the accused and counsel, shall instruct the court as to the elements of the offense and charge the court:

(1) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused, and he must be acquitted;

(3) That if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the state.

History. Acts 1969, No. 50, § 97;
A.S.A. 1947, § 11-652; Acts 1987, No. 125,
§ 12.

12-64-523. Convictions, sentences, etc. — Number of votes required.

(a) No person may be convicted of an offense except by the concurrence of two-thirds ($\frac{2}{3}$) of the members present at the time the vote is taken.

(b) All sentences shall be determined by the concurrence of two-thirds ($\frac{2}{3}$) of the members present at the time that the vote is taken.

(c) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote.

(d)(1) A tie vote on a challenge disqualifies the member challenged.

(2) A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused.

(3) A tie vote on any other question is a determination in favor of the accused.

History. Acts 1969, No. 50, § 98;
A.S.A. 1947, § 11-653.

12-64-524. Announcement of action.

A court-martial shall announce its findings and sentence to the parties as soon as determined.

History. Acts 1969, No. 50, § 99;
A.S.A. 1947, § 11-654.

12-64-525. Record of trial.

(a)(1) Each court-martial shall keep a separate record of the proceedings of the trial of each case brought before it. The record shall be authenticated by the signature of the president and the military judge if one is assigned.

(2) If the record cannot be authenticated by either the president or the military judge by reason of his death, disability, or absence, it shall be signed by a member in lieu of him.

(3) If both the president and the military judge are unavailable, the record shall be authenticated by two (2) members.

(b)(1) A record of the proceedings of a trial in which the sentence adjudged includes a bad conduct discharge or is more than that which could be adjudged by a special court-martial shall contain a complete verbatim account of the proceedings and testimony before the court.

(2) All other records of trial shall contain such matter and be authenticated in such manner as the Governor may by regulation prescribe.

(c)(1) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated.

(2) If a verbatim record of trial by general court-martial is not required by subdivision (b)(1) of this section, the accused may buy the record under such regulations as the Governor may prescribe.

History. Acts 1969, No. 50, § 100; A.S.A. 1947, § 11-655; Acts 1987, No. 125, § 13.

12-64-526. Double jeopardy.

(a) No person may without his consent be tried a second time in any court of the state for the same offense.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this section.

History. Acts 1969, No. 50, § 90; A.S.A. 1947, § 11-645.

SUBCHAPTER 6 — SENTENCING

SECTION.

- 12-64-601. Cruel and unusual punishments prohibited.
- 12-64-602. Maximum limits.
- 12-64-603. Sentence of dismissal, dishonorable discharge, etc.
- 12-64-604. Effective date of sentences.
- 12-64-605. Execution or suspension of sentence.
- 12-64-606. Execution of confinement.

SECTION.

- 12-64-607. Execution of process and sentence.
- 12-64-608. General or special court-martial — Authorized sentence after declaration of war prior to jurisdiction of United States Code of Military Justice.
- 12-64-609. Fines.

Publisher's Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

12-64-601. Cruel and unusual punishments prohibited.

(a) Punishment by flogging or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this code.

(b) The use of irons, single or double, except for the purpose of safe custody, is prohibited.

History. Acts 1969, No. 50, § 101; A.S.A. 1947, § 11-656.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-64-602. Maximum limits.

The punishment which a court-martial may direct for an offense may not exceed limits prescribed by this code.

History. Acts 1969, No. 50, § 102; A.S.A. 1947, § 11-657.

Meaning of "this code". See note to § 12-64-601.

12-64-603. Sentence of dismissal, dishonorable discharge, etc.

(a) A dishonorable discharge, bad conduct discharge, or dismissal shall not be adjudged by any court-martial unless a complete record of the proceedings and testimony before the court has been made.

(b) No sentence of dismissal or dishonorable discharge may be executed until it is approved by the Governor.

History. Acts 1969, No. 50, §§ 65, 66; A.S.A. 1947, §§ 11-620, 11-621.

12-64-604. Effective date of sentences.

(a)(1) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority.

(2) No forfeiture may extend to any pay or allowance accrued before that date.

(b)(1) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the term of confinement.

(2) Regulations prescribed by the Governor may provide that sentences of confinement may not be executed until approved by designated officers.

(c) All other sentences of courts-martial are effective on the date ordered executed.

History. Acts 1969, No. 50, § 103;
A.S.A. 1947, § 11-658.

12-64-605. Execution or suspension of sentence.

Except as otherwise provided, a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit and may suspend the execution of the sentence as approved by him.

History. Acts 1969, No. 50, § 105;
A.S.A. 1947, § 11-660.

12-64-606. Execution of confinement.

(a) A sentence of confinement adjudged by a military court, whether or not the sentence includes a discharge or dismissal and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the organized militia or in any jail, penitentiary, or prison designated for that purpose.

(b) Persons so confined in a jail, penitentiary, or prison are subject to the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state or of any political subdivision thereof.

(c) The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(d) The keepers, officers, and wardens of city or county jails and of other jails, penitentiaries, or prisons designated by the Governor, or by such person as he may authorize shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law.

History. Acts 1969, No. 50, § 104;
A.S.A. 1947, § 11-659.

12-64-607. Execution of process and sentence.

(a) In the organized militia not in federal service, the processes and sentences of its courts-martial when issued shall be executed by the civil officers prescribed by the laws of the state.

(b) When the sentence of a court-martial adjudges confinement and the reviewing authority has approved the sentence in whole or in part, the reviewing authority or the commanding officer for the time being, as the case may be, shall issue a warrant of commitment to the sheriff of the county in which the court-martial was held directing the sheriff to take the body of the person so sentenced and confine him in the county jail of the county for the period named in the sentence, as approved, or until he may be directed to release him for proper authority. The

confinement shall be carried out as prescribed for confinement in jail by the code of criminal procedure of this state.

History. Acts 1969, No. 50, § 168;
A.S.A. 1947, § 11-679.

12-64-608. General or special court-martial — Authorized sentence after declaration of war prior to jurisdiction of United States Code of Military Justice.

A general or special court-martial convened for the trial of a person charged with committing an offense after the declaration of a war or national emergency and before the time when he is brought under the jurisdiction of the United States Uniform Code of Military Justice, 10 U.S.C. § 801 et seq., may, upon conviction, adjudge such punishment as may be appropriate except that it may not exceed that authorized for a similar offense by the United States Uniform Code of Military Justice.

History. Acts 1969, No. 50, § 67;
A.S.A. 1947, § 11-622.

12-64-609. Fines.

(a) Fines may be paid to a military court or to an officer executing its process.

(b)(1) The amount of a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him, until the fine is liquidated.

(2) Any sum so deducted shall be turned in to the military court which imposed the fine and shall be paid over by the officer receiving it in like manner as provided for other fines and moneys collected under a sentence of a summary court-martial.

(c)(1) Notwithstanding any other law, a fine or penalty imposed by a military court upon an officer or enlistee shall be paid by the officer collecting it within thirty (30) days to the Treasurer of the State of Arkansas and shall become a part of, be credited to, and be spent from, the State Military Department Fund.

(2) The Treasurer of the State shall then report the amount thereof to the Adjutant General of the State and shall pay it over in appropriate warrant.

History. Acts 1969, No. 50, § 171;
A.S.A. 1947, § 11-682.

SUBCHAPTER 7 — REVIEW OF COURTS-MARTIAL

SECTION.

12-64-701. Initial action on the record.
12-64-702. General court-martial records.

SECTION.

12-64-703. Reconsideration and revision.
12-64-704. Review of records — Disposition.

SECTION.

- 12-64-705. Approval by convening authority.
12-64-706. Error of law — Lesser included offense.
12-64-707. Rehearings.
12-64-708. Change in sentence.
12-64-709. Vacation of suspension of sentence.

SECTION.

- 12-64-710. Review counsel.
12-64-711. Finality of proceedings, findings, and sentences.
12-64-712. Petition for a new trial.
12-64-713. New trial — Effect on sentence.
12-64-714. Appeal to Supreme Court or Court of Appeals.

Publisher's Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

12-64-701. Initial action on the record.

After a trial by court-martial, the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the Governor.

History. Acts 1969, No. 50, § 106;
A.S.A. 1947, § 11-661.

12-64-702. General court-martial records.

The convening authority shall refer the record of each general court-martial to the State Judge Advocate, who shall submit his written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

History. Acts 1969, No. 50, § 107;
A.S.A. 1947, § 11-662.

12-64-703. Reconsideration and revision.

(a) If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(b)(1) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action.

(2) In no case, however, may the record be returned:

(A) For reconsideration of a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;

(B) For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code; or

(C) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

History. Acts 1969, No. 50, § 108; A.S.A. 1947, § 11-663.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-64-704. Review of records — Disposition.

(a) If the convening authority is the Governor, his action on the review of any record of trial is final.

(b) In all other cases not covered by subsection (a) of this section, if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate or legal officer of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate or legal officer shall then be sent to the State Judge Advocate for review.

(c) All other special and summary court-martial records shall be sent to the judge advocate or legal officer of the appropriate force of the organized militia and shall be acted upon, transmitted, and disposed of as may be prescribed by regulations prescribed by the Governor.

(d)(1) The State Judge Advocate shall review the record of trial in each case sent to him for review.

(2) The State Judge Advocate shall take final action in any case reviewable by him.

(3) In a case reviewable by the State Judge Advocate under this section, the State Judge Advocate may act only with respect to the findings and sentence as approved by the convening authority.

(e) If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the State Judge Advocate shall be limited to questions of jurisdiction.

(f)(1) He may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and determines, on the basis of the entire record, should be approved.

(2) In considering the record, he may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

(g)(1) If the State Judge Advocate sets aside the findings and sentence, he may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing.

(2) If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(3) In a case reviewable by the State Judge Advocate under this section, he shall instruct the convening authority to act in accordance with his decision on the review.

(4) If he has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

(h)(1) The State Judge Advocate may order one (1) or more boards of review, each composed of not less than three (3) commissioned officers of the organized militia, each of whom must be a member of the bar of the highest court of the state.

(2) Each board of review shall review the record of any trial by special court-martial, including a sentence to a bad conduct discharge, referred to it by the State Judge Advocate.

(3) Boards of review have the same authority on review as the State Judge Advocate has under this section.

History. Acts 1969, No. 50, § 111;
A.S.A. 1947, § 11-666.

12-64-705. Approval by convening authority.

In acting on the findings and sentence of a court-martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence.

History. Acts 1969, No. 50, § 110;
A.S.A. 1947, § 11-665.

12-64-706. Error of law — Lesser included offense.

(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense.

History. Acts 1969, No. 50, § 112;
A.S.A. 1947, § 11-667.

12-64-707. Rehearings.

(a)(1) If the convening authority disapproves the findings and sentence of a court-martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing.

(2) In such a case he shall state the reasons for disapproval.

(3) If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(b)(1) Each rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case.

(2) Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court-martial; and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings or unless the sentence prescribed for the offense is mandatory.

History. Acts 1969, No. 50, § 109;
A.S.A. 1947, § 11-664.

12-64-708. Change in sentence.

(a) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(b) The Governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

History. Acts 1969, No. 50, § 116;
A.S.A. 1947, § 11-671.

12-64-709. Vacation of suspension of sentence.

(a)(1) Before the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation.

(2) The probationer shall be represented at the hearing by counsel if he so desires.

(3) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the Governor in cases involving a general court-martial sentence and to the commanding officer of the force of the organized militia of which the probationer is a member in all other cases covered by subsection (a) of this section.

(4) If the Governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(b) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

History. Acts 1969, No. 50, § 114;
A.S.A. 1947, § 11-669.

12-64-710. Review counsel.

(a) Upon the final review of a sentence of a general court-martial or of a sentence to a bad-conduct discharge, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the State Judge Advocate.

(b) Upon the request of an accused entitled to be so represented, the State Judge Advocate shall appoint a lawyer who is a member of the organized militia and who has the qualifications prescribed in this code, if available, to represent the accused before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the State Judge Advocate, in the review of cases specified in subsection (a) of this section.

(c) If provided by him, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the State Judge Advocate.

History. Acts 1969, No. 50, § 113; **Meaning of "this code".** See note to
A.S.A. 1947, § 11-668. § 12-64-703.

12-64-711. Finality of proceedings, findings, and sentences.

(a) The proceedings, findings, and sentences of courts-martial as reviewed and approved, as required by this code, and all dismissals and discharges carried into execution under sentences by courts-martial following review and approval, as required herein, are final and conclusive.

(b) Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for a new trial as provided herein.

History. Acts 1969, No. 50, § 118; **Meaning of "this code".** See note to
A.S.A. 1947, § 11-673. § 12-64-703.

12-64-712. Petition for a new trial.

At any time within two (2) years after approval by the convening authority of a court-martial sentence which extends to dismissal, dishonorable or bad-conduct discharge, the accused may petition the Governor for a new trial on ground of newly discovered evidence or fraud on the court-martial.

History. Acts 1969, No. 50, § 115;
A.S.A. 1947, § 11-670.

12-64-713. New trial — Effect on sentence.

(a) Under such regulations as the Governor may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

(b) If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the Governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c)(1) If a previously executed sentence of dismissal is not imposed on a new trial, the Governor shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the Governor alone to such commissioned grade and with such rank as in the opinion of the Governor that former officer would have attained had he not been dismissed.

(2) The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization.

(3) All times between the dismissal and the reappointment shall be considered as service for all purposes.

History. Acts 1969, No. 50, § 117;
A.S.A. 1947, § 11-672.

12-64-714. Appeal to Supreme Court or Court of Appeals.

(a) When an accused has exhausted all of his rights of review within the organized militia, he may appeal the conviction and sentence of a court-martial to the Supreme Court or, if Supreme Court Rules provide, to the Court of Appeals.

(b) The proceedings for an appeal shall be initiated by filing a notice of appeal with the State Adjutant General. The notice of appeal shall be served on the State Adjutant General personally or by certified mail. It shall be unnecessary to serve other parties. Any appeal shall be filed with the State Adjutant General no more than thirty (30) days after the effective date of the sentence under § 12-64-604.

(c) The record of any court-martial conviction and sentence appealed shall be lodged in the office of the clerk of the court within the time prescribed by law or court rule for filing an appeal of a criminal conviction in a circuit court in this state, and not thereafter, and only after the party appealing has paid to the Adjutant General the costs for preparation of the transcript and to the court clerk the filing costs.

(d) In all cases of appeal to the Supreme Court or Court of Appeals, the appeal shall be taken on the record in the case, consisting of

pertinent documents and papers, any transcript of evidence, and the findings and orders. The appellate jurisdiction of the Supreme Court and Court of Appeals shall extend only to questions of law, as in criminal cases appealed from the circuit courts.

(e) Upon request of the defendant, the State Judge Advocate may appoint an attorney having the qualifications prescribed in § 12-64-410(c) to represent the defendant in the appeal of his court-martial conviction and sentence to the Supreme Court or Court of Appeals.

(f) Indigent defendants shall have the same right to appointed appellate defense counsel as accused persons not in the military. On an appeal, the state shall be represented by the Attorney General or his designee.

History. Acts 1987, No. 125, § 14.

SUBCHAPTER 8 — PUNITIVE ARTICLES

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- 12-64-843. Conduct unbecoming an officer and a gentleman.
- 12-64-844. General article — Offenses cognizable by courts-martial.

Publisher's Notes. For Comments regarding the Uniform Code of Military Justice, see Commentaries Volume B.

Effective Dates. Acts 1983, No. 412, § 5: Mar. 13, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Governor should be granted the authority to designate certain military officers to administer the Oath of Enlistment to new members of the militia; that the crimes of assault and aggravated assault should be

specifically provided for by the Military Code; that the jurisdiction of general, special, and summary courts-martial should be clarified; and that this act is immediately necessary to accomplish the same. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

12-64-801. Persons to be tried or punished.

No person may be tried or punished for any offense provided for in this code, unless it was committed while he was in a duty status.

History. Acts 1969, No. 50, § 119; A.S.A. 1947, § 11-701.

12-64-802. Principals.

Any person subject to this code is a principal, if he:

- (1) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or
- (2) Causes an act to be done which if directly performed by him, would be punishable by this code.

History. Acts 1969, No. 50, § 120; A.S.A. 1947, § 11-702.

Meaning of "this code". Acts 1969, No. 50, codified as §§ 12-60-101 — 12-60-104, 12-61-101 — 12-61-123, 12-61-201 — 12-61-207, 12-61-301 — 12-61-306, 12-62-101 — 12-62-103, 12-62-201 — 12-62-205, 12-62-301 — 12-62-305, 12-62-306 [repealed], 12-62-401, 12-62-402 [repealed],

12-62-403, 12-62-404, 12-62-406, 12-62-408 — 12-62-410, 12-62-412, 12-63-210, 12-63-211, 12-63-301 — 12-63-305, 12-64-101 — 12-64-110, 12-64-201 — 12-64-207, 12-64-301 — 12-64-303, 12-64-401 — 12-64-414, 12-64-501 — 12-64-526, 12-64-601 — 12-64-609, 12-64-701 — 12-64-713, 12-64-801 — 12-64-844.

12-64-803. Accessory after the fact.

Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 121; A.S.A. 1947, § 11-703.

Meaning of "this code". See note to § 12-64-802.

12-64-804. Conviction of lesser included offense.

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

History. Acts 1969, No. 50, § 122;
A.S.A. 1947, § 11-704.

12-64-805. Attempts.

(a) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

History. Acts 1969, No. 50, § 123; **Meaning of "this code".** See note to
A.S.A. 1947, § 11-705. § 12-64-802.

12-64-806. Conspiracy.

Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one (1) or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 124; **Meaning of "this code".** See note to
A.S.A. 1947, § 11-706. § 12-64-802.

12-64-807. Solicitation.

(a) Any person subject to this code who solicits or advises another or others to desert or mutiny shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court-martial may direct.

(b) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 125; **Meaning of "this code".** See note to
A.S.A. 1947, § 11-707. § 12-64-802.

12-64-808. Fraudulent or unlawful enlistment, appointment, or separation.

(a) Any person shall be punished as a court-martial may direct if he:

(1) Procures his own enlistment or appointment in the organized militia by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) Procures his own separation from the organized militia by knowingly false representation or deliberate concealment as to his eligibility for that separation.

(b) Any person subject to this code who effects an enlistment or appointment in or a separation from the organized militia of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, §§ 126, 127; A.S.A. 1947, §§ 11-708, 11-709.

Meaning of "this code". See note to § 12-64-802.

12-64-809. Desertion.

(a) Any member of the organized militia is guilty of desertion if he:

(1) Without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;

(2) Quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important services; or

(3) Without being regularly separated from one (1) of the forces of the organized militia enlists or accepts an appointment in the same or another one of the forces of the organized militia without fully disclosing the fact that he has not been regularly separated.

(b) Any commissioned officer of the organized militia who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 128; A.S.A. 1947, § 11-710.

12-64-810. Absence without leave.

Any person subject to this code shall be punished as a court-martial may direct if he, without authority:

(1) Fails to go to his appointed place of duty at the time prescribed;

(2) Goes from that place; or

(3) Absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed.

History. Acts 1969, No. 50, § 129;
A.S.A. 1947, § 11-711.

Meaning of "this code". See note to
§ 12-64-802.

12-64-811. Missing movement.

Any person subject to this code who through neglect or design misses the movement of a military unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 130;
A.S.A. 1947, § 11-712.

Meaning of "this code". See note to
§ 12-64-802.

12-64-812. Contempt towards officials.

Any person subject to this code who uses contemptuous words against the President, the Governor, the General Assembly, or the governor or legislature of any state, territory, commonwealth, or possession wherein that person may be serving shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 131;
A.S.A. 1947, § 11-713.

Meaning of "this code". See note to
§ 12-64-802.

12-64-813. Disrespect towards superior commissioned officer.

Any person subject to this code who behaves with disrespect towards his superior commissioned officer shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 132;
A.S.A. 1947, § 11-714.

Meaning of "this code". See note to
§ 12-64-802.

12-64-814. Assault generally.

Any person subject to this code who attempts, or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated is guilty of assault and shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 133;
1983, No. 412, § 2; A.S.A. 1947, § 11-715.

Meaning of "this code". See note to
§ 12-64-802.

12-64-815. Assaulting or willfully disobeying superior commissioned officer.

Any person subject to this code shall be punished as a court-martial may direct if he:

(1) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) Willfully disobeys a lawful command of his superior commissioned officer.

History. Acts 1969, No. 50, § 133; **Meaning of "this code".** See note to 1983, No. 412, § 2; 1985, No. 670, § 9; § 12-64-802. A.S.A. 1947, § 11-715.

12-64-816. Insubordinate conduct towards any noncommissioned officer.

Any enlisted member shall be punished as a court-martial may direct if he:

(1) Strikes or assaults a noncommissioned officer while that noncommissioned officer is in the execution of his office;

(2) Willfully disobeys the lawful order of a noncommissioned officer; or

(3) Treats with contempt or is disrespectful in language or deportment towards a noncommissioned officer while that noncommissioned officer is in the execution of his office.

History. Acts 1969, No. 50, § 134; A.S.A. 1947, § 11-716.

12-64-817. Failure to obey order or regulation.

Any person subject to this code shall be punished as a court-martial may direct if he:

(1)(A) Violates or fails to obey any lawful order or regulation. A lawful order or regulation is a written, electronic, nonverbal or oral communication by a member of the armed forces acting within the scope of official military duties regarding instruction, decision, rule, judgment, directive, procedure, statement or command, and which primarily affects the action, organization, training, good order, discipline, property, welfare, administration, operation, and procedure of the armed forces.

(B) Lawful orders and regulations shall not be subject to the requirements of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(2) Having knowledge of any other lawful order issued by a member of the organized militia, which it is his duty to obey, fails to obey the order or;

(3) Is derelict in the performance of his duties.

History. Acts 1969, No. 50, § 135; **Meaning of "this code".** See note to A.S.A. 1947, § 11-717; Acts 1993, No. 926, § 12-64-802. § 1; 1993, No. 1035, § 1.

12-64-818. Cruelty and maltreatment.

Any person subject to this code who is guilty of cruelty toward or oppression or maltreatment of any person subject to his orders shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 136;
A.S.A. 1947, § 11-718.

Meaning of "this code". See note to
§ 12-64-802.

12-64-819. Mutiny or sedition.

(a)(1) Any person subject to this code is guilty of mutiny if he, with intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance;

(2) Any person subject to this code is guilty of sedition if he, with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority;

(3) Any person subject to this code is guilty of a failure to suppress or report a mutiny or sedition if he fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place.

(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 137;
A.S.A. 1947, § 11-719.

Meaning of "this code". See note to
§ 12-64-802.

12-64-820. Resistance, break of arrest, and escape.

Any person subject to this code who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 138;
A.S.A. 1947, § 11-720.

Meaning of "this code". See note to
§ 12-64-802.

12-64-821. Releasing prisoner without proper authority.

Any person subject to this code who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law.

History. Acts 1969, No. 50, § 139;
A.S.A. 1947, § 11-721.

Meaning of "this code". See note to
§ 12-64-802.

12-64-822. Unlawful detention of another.

Any person subject to this code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 140;
A.S.A. 1947, § 11-722.

Meaning of "this code". See note to
§ 12-64-802.

12-64-823. Noncompliance with procedural rules.

Any person subject to this code shall be punished as a court-martial may direct if he:

(1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(2) Knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused.

History. Acts 1969, No. 50, § 141;
A.S.A. 1947, § 11-723.

Meaning of "this code". See note to
§ 12-64-802.

12-64-824. Misbehavior before the enemy.

Any person subject to this code shall be punished as a court-martial may direct if he, before or in the presence of the enemy:

(1) Runs away;

(2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;

(3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) Casts away his arms or ammunition;

(5) Is guilty of cowardly conduct;

(6) Quits his place of duty to plunder or pillage;

(7) Causes false arms in any command, unit, or place under control of the armed forces of the United States or the organized militia;

(8) Willfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy;
or

(9) Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to this state, or to any other state, when engaged in battle.

History. Acts 1969, No. 50, § 142;
A.S.A. 1947, § 11-724.

Meaning of "this code". See note to
§ 12-64-802.

12-64-825. Subordinate compelling surrender.

Any person subject to this code who compels or attempts to compel the commander of any force of the organized militia of this state, or of any other state, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 143;
A.S.A. 1947, § 11-725.

Meaning of "this code". See note to
§ 12-64-802.

12-64-826. Improper use of countersign.

Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign, a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 144;
A.S.A. 1947, § 11-726.

Meaning of "this code". See note to
§ 12-64-802.

12-64-827. Captured or abandoned property.

(a) All persons subject to this code shall secure all public property taken from the enemy for the service of the State of Arkansas or the United States and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Any person subject to this code shall be punished as a court-martial may direct if he:

(1) Fails to carry out the duties prescribed in subsection (a) of this section;

(2) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(3) Engages in looting or pillaging.

History. Acts 1969, No. 50, § 145;
A.S.A. 1947, § 11-727.

Meaning of "this code". See note to
§ 12-64-802.

12-64-828. Aiding the enemy.

Any person subject to this code shall be punished as a court-martial may direct if he:

(1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds an intercourse with the enemy, either directly or indirectly.

History. Acts 1969, No. 50, § 146;
A.S.A. 1947, § 11-728.

Meaning of "this code". See note to
§ 12-64-802.

12-64-829. Misconduct as a prisoner.

Any person subject to this code shall be punished as a court-martial may direct if he, while in the hands of the enemy in time of war:

(1) For the purpose of securing favorable treatment by his captors, acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of other of whatever nationality held by the enemy as civilian or military prisoners; or

(2) While in a position of authority over such persons, maltreats them without justifiable cause.

History. Acts 1969, No. 50, § 147;
A.S.A. 1947, § 11-729.

Meaning of "this code". See note to
§ 12-64-802.

12-64-830. False official statements.

Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 148;
A.S.A. 1947, § 11-730.

Meaning of "this code". See note to
§ 12-64-802.

12-64-831. Misuse of military property.

Any person subject to this code shall be punished as a court-martial may direct if, without proper authority, he:

- (1) Sells or otherwise disposes of;
 - (2) Willfully or through neglect damages, destroys, or loses; or
 - (3) Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of;
- any military property of the United States or of the state.

History. Acts 1969, No. 50, § 149;
A.S.A. 1947, § 11-731.

Meaning of "this code". See note to
§ 12-64-802.

12-64-832. Misuse of nonmilitary property.

Any person subject to this code who, while in a duty status, willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of the state shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 150;
A.S.A. 1947, § 11-732.

Meaning of "this code". See note to
§ 12-64-802.

12-64-833. Improper hazarding of vessel.

(a) Any person subject to this code who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

(b) Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 151;
A.S.A. 1947, § 11-733.

Meaning of "this code". See note to
§ 12-64-802.

12-64-834. Drunken or reckless driving.

Any person subject to this code who operates any vehicle while under the influence of intoxicants or drugs, or in a reckless or wanton manner, shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 152;
A.S.A. 1947, § 11-734.

Meaning of "this code". See note to
§ 12-64-802.

12-64-835. Misbehavior while at post.

Any person subject to this code who is found drunk on duty or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 153;
A.S.A. 1947, § 11-735.

Meaning of "this code". See note to
§ 12-64-802.

12-64-836. Dueling or fighting.

Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 154;
A.S.A. 1947, § 11-736.

Meaning of "this code". See note to
§ 12-64-802.

12-64-837. Malingering.

Any person subject to this code shall be punished as a court-martial may direct if he, for the purpose of avoiding work, duty, or service in the organized militia:

(1) Feigns illness, physical disablement, mental lapse, or derangement; or

(2) Intentionally inflicts self-injury.

History. Acts 1969, No. 50, § 155;
A.S.A. 1947, § 11-737.

Meaning of "this code". See note to
§ 12-64-802.

12-64-838. Riot or breach of peace.

Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 156; **Meaning of “this code”.** See note to A.S.A. 1947, § 11-738. § 12-64-802.

12-64-839. Provoking speeches or gestures.

Any person subject to this code who uses provoking or reproachful words or gestures towards any other person subject to this code shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 157; **Meaning of “this code”.** See notes to A.S.A. 1947, § 11-739. § 12-64-802.

12-64-840. Perjury.

Any person subject to this code who in a judicial proceeding or in a course of justice conducted under this code willfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 158; **Meaning of “this code”.** See note to A.S.A. 1947, § 11-740. § 12-64-802.

12-64-841. Frauds against the government.

Any person subject to this code shall, upon conviction, be punished as a court-martial may direct if he:

(1) Knowing it to be false or fraudulent makes any claim against the United States, the state or any officer thereof; or presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the state or any officer thereof;

(2) For the purpose of obtaining approval, allowance, or payment of any claim against the United States, the state or any officer thereof makes or uses any writing or other paper knowing it to contain any false or fraudulent statements; makes any oath to any fact or to any writing or other paper knowing the oath to be false; or forges or counterfeits any signature upon any writing or other paper or uses any such signature knowing it to be forged or counterfeited;

(3) Having charge, possession, custody, or control of any money or other property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

(4) Being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state.

History. Acts 1969, No. 50, § 159; **Meaning of "this code".** See note to A.S.A. 1947, § 11-741. § 12-64-802.

12-64-842. Stealing goods of not more than thirty-five dollars' value.

Any person subject to this code who wrongfully and fraudulently takes and carries away the personal goods of another, of the value of not more than thirty-five dollars (\$35.00), with intent to steal it, shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 160; **Meaning of "this code".** See note to A.S.A. 1947, § 11-742. § 12-64-802.

12-64-843. Conduct unbecoming an officer and a gentleman.

Any commissioned officer who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

History. Acts 1969, No. 50, § 161; A.S.A. 1947, § 11-743.

12-64-844. General article — Offenses cognizable by courts-martial.

(a) Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the organized militia, all conduct of a nature to bring discredit upon the organized militia, and crimes and offenses not capital, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

(b) However, cognizance may not be taken and jurisdiction may not be extended to the crimes of murder, manslaughter, rape, larceny and wrongful appropriation for value of over thirty-five dollars (\$35.00), robbery, maiming, sodomy, arson, extortion, burglary, or housebreaking, jurisdiction of which is reserved to civil courts.

History. Acts 1969, No. 50, § 162; **Meaning of "this code".** See note to 1983, No. 412, § 3; A.S.A. 1947, § 11-744. § 12-64-802.

CHAPTERS 65-74

[Reserved.]

SUBTITLE 5. EMERGENCY MANAGEMENT

CHAPTER 75

ARKANSAS EMERGENCY SERVICES ACT OF 1973

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. EMPLOYEES.

A.C.R.C. Notes. References to “this chapter” in §§ 12-75-101 — 12-75-130 may not apply to § 12-75-131 or subchapter 2 which were enacted subsequently.

Publisher's Notes. Acts 1973, No. 511, § 25, provided that this chapter repealed Act 156 of 1959 and was not to be deemed to repeal any other existing laws pertaining to emergency services, but should be cumulative thereto.

Acts 1973, No. 511, § 28, provided that this chapter should not impair or affect any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the effective date of the act.

Cross References. Arkansas Earthquake Preparedness Act of 1989, § 12-77-101 et seq.

Hazardous substance emergencies remedial action trust fund, § 8-7-501 et seq.

Hazardous substance emergencies, § 8-7-401 et seq.

Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq.

Effective Dates. Acts 1973, No. 511, § 29: Mar. 30, 1973. Emergency clause provided: “It has been found and is declared by the General Assembly of Arkansas that there is an immediate necessity to hasten the completion of plans to prepare this State and people thereof against the possibilities of disaster resulting from enemy attack, sabotage or other hostile action, from natural disasters, such as fire, flood, earthquake, or other natural causes, and from man-caused peacetime emergencies, and that enactment of this bill will hasten completion of such plans. Therefore, an emergency is declared to exist, this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force and operation from the date of its approval.”

Acts 1981, No. 891, § 7: Mar. 28, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 511 of 1973, the Arkansas Emergency Services Act, is in urgent need of revision and clarification to enable the State Office of Emergency Services to more effectively and efficiently carry out its responsibilities under said act; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being neces-

sary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 629, § 4: Mar. 27, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 511 of 1973, the Arkansas Emergency Services Act, is in urgent need of revision and clarification to enable the State Office of Emergency Services to more effectively and efficiently carry out its responsibilities under said act; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 687, § 11: Mar. 27, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 511 of 1973, the Arkansas Emergency Services Act, is in urgent need of revision and clarification to enable the State Office of Emergency Services to more effectively and efficiently carry out its responsibilities under said act; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 978, § 11: Apr. 15, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 511 of 1973, the Arkansas Emergency Services Act, is in urgent need of revision and clarification to enable the State Office of Emergency Services to more effectively and efficiently carry out its responsibilities under said act; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1995, No. 1028, § 20: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth

General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon

the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Cross References. Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

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- 12-75-101. Title.
- 12-75-102. Policy and purposes.
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- 12-75-105. Status of civil defense employees.
- 12-75-106. Enforcement.
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- 12-75-109. Arkansas Department of Emergency Management — Establishment — Personnel.
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- planning and service areas.
- 12-75-118. Local and interjurisdictional disaster agencies and services.
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- 12-75-126. Public safety officers.
- 12-75-127. Emergency services workers — Eligibility — Oath — Uniform.
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- 12-75-129. Emergency services workers — Workers' compensation benefits.
- 12-75-130. Call-up of retired law enforcement officers.
- 12-75-131. Disaster relief pay.

A.C.R.C. Notes. Acts 2003, No. 1366, provides: "SECTION 1. Findings. The Arkansas General Assembly finds that:

"(1) The threat of terrorism and the use of weapons of mass destruction has become a reality in the United States and the State of Arkansas, the emergency ser-

vice agencies of state and local government have had to assume the new and serious responsibilities of protecting the citizenry from these threats from both domestic and international sources;

"(2) It is incumbent upon emergency service agencies of this state to assess

vulnerabilities, make plans, and develop operational procedures to prevent, investigate, and respond to these threats; and

“(3) It is of the utmost importance that those who may engage in acts of terrorism or employ weapons of mass destruction against the people and property of this state not have access to the information designed to prevent and defeat them.

“SECTION 2. Definitions.

“As used in this act:

“(1) ‘Catastrophe’ means a man-made event that causes disastrous property damage, death, or serious physical injury to multiple people by explosion, fire, flood, avalanche, collapse of building, distribution of poison, radioactive material, bacteria, virus, or other dangerous and difficult to confine force or substance; and

“(2) ‘Emergency service agency’ means an agency or department of any county or city that has first responder or investigative responsibilities in the event of a catastrophe or use of a weapon of mass destruction; and

“(3) ‘Weapon of mass destruction’ means an explosive, chemical, radioactive, or biological agent, or any other substance or device capable of causing extensive property damage, death, or serious physical injury to multiple persons in a single act or series of acts;

“SECTION 3. Threat assessments and plans.

“(a)(1) The threat assessments, plans, operational policies or procedures, and training developed or maintained by any emergency service agency for the purpose of preventing, investigating, or responding to a catastrophe or use of weapons of mass destruction are not subject to public disclosure as public records except if the disclosure is determined in the best public interest by the head of the emergency service agency.

“(2) Any document or information received by an emergency service agency from an agency of the United States government, another state, or its political

subdivisions that is not subject to disclosure under the laws governing the source agency is not subject to public disclosure as a public record from the Arkansas agency.

“(3) Investigative files of emergency service agencies relating to a catastrophe or use of a weapon of mass destruction are not subject to public disclosure until after final adjudication.

“SECTION 4. Sunset Clause.

“This act expires on July 1, 2005.”

Effective Dates. Acts 1999, No. 449, § 13: Mar. 8, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that funds provided by the General Assembly for the operations of the Department of Finance and Administration — Disbursing Officer are, due to unforeseen circumstances, insufficient for the Department of Finance and Administration — Disbursing Officer to continue to provide essential governmental services; that the provisions of this act will provide the necessary monies for the Department of Finance and Administration — Disbursing Officer to continue such services; and that a delay in the effective date of this Act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Cross References. Powers of county judge generally, § 14-14-1101.

12-75-101. Title.

This chapter may be cited as the Arkansas Emergency Services Act of 1973.

History. Acts 1973, No. 511, § 1;
A.S.A. 1947, § 11-1934.

12-75-102. Policy and purposes.

(a) Because of the existing and increasing possibility of the occurrence of a major emergency or a disaster of unprecedented size and destructiveness resulting from enemy attack, natural or human-caused catastrophes, or riots and civil disturbances and in order to ensure that this state will be prepared to deal with such contingencies in a timely, coordinated, and efficient manner and generally to provide for the common defense and protect the public peace, health, safety and preserve the lives and property of the state, it is found and declared to be necessary to:

(1) Create from the present Office of Emergency Services and current adjunct offices the Arkansas Department of Emergency Management and authorize and direct the creation of comparable local organizations within the political subdivisions of the state;

(2) Confer upon the Governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(3) Provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to carrying out emergency service functions;

(4) Direct the establishment of emergency services liaison offices within each state department and agency; and

(5) Provide for workers' compensation benefits for emergency service workers performing emergency service operations.

(b) It is further declared to be the purpose of this chapter and the policy of the state to authorize and provide for a disaster management system embodying all aspects of predisaster preparedness and post-disaster response by requiring all:

(1) State and local government offices to coordinate emergency management activities through the Arkansas Department of Emergency Management in order to manage personnel, equipment, and resources for the most effective and economical use; and

(2) Emergency service-related functions of this state be coordinated to the maximum extent with comparable functions of the federal government, including its various departments and agencies, with other states and localities, and with private agencies of every type, to the end that the most effective preparation and use may be made of the state and national manpower, resources, and facilities for dealing with any disaster that may occur.

(c)(1) The protection of lives and property is the responsibility of all levels of government.

(2) County and municipal governments, except as noted in this subchapter, bear primary responsibility for initial actions and activities related to disaster preparedness, response, and recovery for the county

and the municipalities therein through their local emergency management office, with support from the department.

(d)(1)(A) When events have exceeded, or will exceed, local government's ability to respond or recover without state assistance, the chief executive officer must declare a local state of disaster or emergency as prescribed in this subchapter to signify his or her intent to request resources of the state or federal government, or both.

(B) Where time constraints are critical to the saving of lives and property, the local chief executive officer may verbally declare a local state of disaster or emergency to the Director of the Arkansas Department of Emergency Management, to be followed by a written declaration as soon as practicable.

(2)(A) Only upon such declaration may the resources of the state be provided and then may the state request that the assistance and resources of the federal government be provided, unless and except where the magnitude of the disaster is of such severity that the functions of local government have ceased or the chief executive officer of the municipal or county government, or both, and his or her designated successor have become incapacitated.

(B) Under such conditions the Governor may declare a state of disaster or emergency on behalf of the specified local jurisdiction and direct emergency functions until such time as local government is restored.

History. Acts 1973, No. 511, § 2; 1981, No. 891, § 1; 1985, No. 687, § 1; 1985, No. 978, § 1; A.S.A. 1947, § 11-1935; Acts 1999, No. 646, §§ 4-6.

Amendments. The 1999 amendment substituted "from the present Office of

Emergency Services and current adjunct offices the Arkansas Department of Emergency Management" for "a State Office of Emergency Services" in (a)(1); rewrote (b)(1); and added (c) and (d).

12-75-103. Definitions.

As used in this chapter:

(1) "Accredited local emergency services organization" means any local organization which has completed the requirements under this chapter, has complied with the rules promulgated by the Arkansas Department of Emergency Management, and has received a letter of accreditation therefrom;

(2) "Chief executive" means head of government Governor, county judge, and mayor or city manager of incorporated places, dependent on the form and level of government;

(3) "Disaster" means any tornado, storm, flood, high water, earthquake, drought, fire, radiological incident, air or surface-borne toxic or other hazardous material contamination, or other catastrophe, whether caused by natural forces, enemy attack, or any other means which:

(A) In the determination of the Governor or the Director of the Arkansas Department of Emergency Management or his or her designee is or threatens to be of sufficient severity and magnitude to warrant state action or to require assistance by the state to supple-

ment the efforts and available resources of local governments and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the chief executive of any political subdivision in which the disaster occurs or threatens to occur certifies the need for state assistance and gives assurance of the local government for alleviating the damage, loss, hardship, or suffering resulting from such disaster; or

(B)(i) Results in an interruption in the delivery of utility services when emergency declarations are required and when delays in obtaining an emergency declaration from the Governor or the director or his or her designee would hamper and delay restoration of utility service.

(ii) In those instances, the Governor or the director or his or her designee may make such emergency determination subsequent to the initiation of the restoration work;

(4)(A) "Emergency management" means disaster or emergency preparedness, mitigation, response, and recovery by state and local governments other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from major emergencies or from disasters caused by enemy attack, domestic or foreign terrorist attacks, natural causes, human-made catastrophes, or civil disturbances.

(B) These functions include, without limitation:

- (i) Fire fighting;
- (ii) Law and order;
- (iii) Medical and health;
- (iv) Rescue;
- (v) Engineering;
- (vi) Warning;
- (vii) Communications;
- (viii) Radiological, chemical, biological, or other special material identification, measurement, and decontamination;
- (ix) Evacuation or relocation of persons from stricken areas;
- (x) Emergency social services such as housing, feeding, and locator services;
- (xi) Emergency transportations;
- (xii) Plant protection;
- (xiii) Damage assessment and evaluation;
- (xiv) Temporary restoration of public facilities;
- (xv) Emergency restoration of publicly owned utilities, or privately owned utilities serving the public good;
- (xvi) Debris clearance;
- (xvii) Hazard vulnerability and capability analysis; and
- (xviii) Other functions related to the protection of the people and property of the state, together with all other activities necessary or incidental to the preparedness, mitigation, response, and recovery for all the foregoing functions;

(5) "Emergency management requirements" means specific actions, activities, and accomplishments required for funding of state and

established local offices of emergency services, or both, under applicable state and federal emergency management program guidance and regulations;

(6) "Emergency management standards" means standards of training, education, and performance established by the director for employees of the state and established local offices of emergency services designed to ensure competency and professionalism and to determine minimum qualifications for the receipt of federal or state emergency management funding, or both;

(7) "Established local office of emergency services" means any one (1) of the seventy-five (75) county offices or those specified municipal offices of emergency services accredited by the department as of January 1, 1993, and any such additional municipal or interjurisdictional office of emergency services as may later be established by the Governor under this chapter;

(8) "Governing bodies" means county quorum courts, city councils, and city boards of directors;

(9)(A) "Hazard mitigation assistance" means funds and programs to correct, alleviate, or eliminate a condition or situation which poses a threat to life, property, or public safety from the effects of disaster, as defined in subdivision (2) of this section.

(B) This may include, but is not limited to, raising, replacing, removing, rerouting, or reconstructing existing public facilities such as roads, bridges, buildings, equipment, drainage systems, or other public or private nonprofit property, as defined in the Disaster Relief Act of 1974, 38 U.S.C. § 3720 and 42 U.S.C. §§ 5121 et seq.

(10) "Individual assistance" means funds and programs to provide for the immediate needs, including, but not limited to, food, clothing, and shelter for individuals and families;

(11)(A) "Interjurisdictional agreement" means a mutual agreement between two (2) or more established local offices of emergency services which is approved by executive order of the Governor in accordance with this chapter to merge, integrate, or otherwise combine the functions of the respective established local offices of emergency services for more effective, economical, and efficient use of available personnel and resources.

(B) An agreement shall include specific provisions addressing the appointment, funding, administration, and operational control of the emergency services coordinator and staff of the interjurisdictional office of emergency services;

(12) "Local organization for emergency services" means a county or municipal office of emergency services created and established in accordance with the provisions of this chapter to perform local emergency service functions within the existing political subdivisions of the state;

(13) "Major emergency" means a condition which requires the activation of emergency response at the state or local levels, either in anticipation of a severe disaster such as an imminent enemy attack,

potential civil disturbance, forecast major natural or human-caused disaster, or actual onset of conditions requiring the use of such forces which exceed the day-to-day response and activities of such forces and requires the coordinating of a complement of local, state, federal, or volunteer organizations;

(14)(A) "Mobile support unit" means a unit for damage assessment, evaluation, and recovery operations, created in accordance with this chapter by state and local offices of emergency services from personnel assigned to state and local governmental agencies.

(B) The composition of mobile support units shall be determined by the nature of the disaster and type of assistance needed in the stricken area;

(15)(A)(i) "Operational control" means the assigning of missions and the exercising of immediate command and overall management of all resources committed by state or local government to a disaster operation or major emergency.

(ii) Unless otherwise delegated by executive order, the chief executive of the state or local governments, the director, or head of the local office of emergency services as the chief executive's direct representative will exercise operational control of the occurrence and assign missions.

(B) Each agency, department, or organization will exercise control and authority over its personnel and resources to accomplish the assigned mission.

(C)(i) Each will coordinate activities through the department or local office of emergency services exercising operational control of the occurrence.

(ii) Operational control does not imply, nor is it intended to include, administrative management, which will remain with the parent organization;

(16) "Political subdivision" means all duly formed and constituted governing bodies created and established under the authority of the Constitution and laws of this state;

(17) "Public assistance" means funds and programs to make emergency repairs or restoration of public facilities, to include, but not be limited to, publicly owned or maintained facilities such as roads, streets, bridges, utilities, schools, and other structures and facilities;

(18)(A) "Public safety agency" means an agency of the State of Arkansas or a functional division of a political subdivision which provides firefighting and rescue, natural or human-caused disaster or major emergency response, law enforcement, and ambulance or emergency medical services.

(B) State and local offices of emergency services are considered in the context and definition of public safety agencies for performance or coordination of functions defined as emergency services to the extent necessary for mitigation of, planning for, response to, and recovery from disasters or major emergencies;

(19)(A) "Public safety officer" of state and local offices of emergency services means those positions approved by the director in state and

local staffing patterns and authorized by him or her to perform or coordinate emergency service functions to the extent necessary for mitigation of, planning for, response to, and recovery from disasters or major emergencies within limitations of this chapter.

(B) Communications personnel may be designated as public safety officers for the purposes of operating public safety communications networks and access to disaster or major emergency areas to operate mobile communications command post equipment;

(20) "Qualified emergency services worker" means a volunteer worker, duly qualified and registered with either an accredited local emergency services organization or the department, who has on file in either of the aforementioned the following:

- (A) Name and address;
- (B) Date enrolled;
- (C) Loyalty oaths; and
- (D) Class of service assigned;

(21) "Response assistance" means funds to defray the costs of response to an emergency that does not necessarily result in a disaster of the magnitude and scope described in subdivision (2) of this section, but which requires the deployment and utilization of state and local government and private, nonprofit emergency personnel, equipment, and resources to protect and preserve lives and property and for the welfare of the citizens of Arkansas;

(22) "State department/agency liaison office" means personnel designated by each state department/agency head to coordinate with, advise, consult, and otherwise support the state and local offices of emergency services in developing plans, identifying resources, and such other activities as are deemed necessary to ensure that all required resources of the state and local government can be brought to bear in a coordinated manner to effect a timely, efficient, and economical response to any disaster or major emergency which may occur; and

(23) "Utility services" means the transmission of communications or the transmission, distribution, or delivery of electricity, water, or natural gas for public use.

History. Acts 1973, No. 511, § 3; 1985, No. 629, § 1; 1985, No. 687, § 2; 1985, No. 978, § 2; A.S.A. 1947, § 11-1936; Acts 1993, No. 1049, §§ 1, 2; 1995, No. 116, § 1; 1999, No. 646, §§ 7-11; 1999, No. 913, § 1.

A.C.R.C. Notes. As enacted by Acts 1993, No. 1049, § 2, subdivision (9)(B) ended: "as defined in PL 93-288, as amended by PL 100-707."

Amendments. The 1999 amendment by No. 913 substituted "Arkansas Department of Emergency Management" for

"State Office of Emergency Services" throughout the section; rewrote (1); deleted "occurring anywhere in the state" following "other means" in (2) and made minor punctuation changes; in (2)(A), substituted "In" for "in" at the beginning and inserted "or the Director of the" and "or his or her designee"; added (2)(B); added (23); and made stylistic changes.

The 1999 amendment by No. 646 rewrote (1), (7), (13), (14), (18), and (20); and made stylistic changes.

CASE NOTES**Disaster.**

City employee who was a registered emergency service worker for the county and was killed at scene of brush fire was not entitled to workers' compensation un-

der § 12-75-129 because no disaster or catastrophe existed as defined by this section. *Office of Emergency Servs. v. Home Ins. Co.*, 2 Ark. App. 185, 618 S.W.2d 573 (1981).

12-75-104. Scope of chapter — Limitations.

Nothing in this chapter shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health and safety;

(2)(A) Interfere with dissemination of news or comment on public affairs.

(B) However, any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;

(3)(A) Affect the jurisdiction or responsibilities of units of the armed forces of the United States or of any personnel thereof, when on active duty, or the day-to-day operations of law enforcement agencies or firefighting forces.

(B) However, state, local, and interjurisdictional disaster or emergency operations plans shall place emphasis upon maximum utilization of forces available for performance of functions related to disaster and major emergency occurrences; or

(4) Limit, modify, or abridge the authority of the Governor to proclaim martial law or of the Governor or chief executive of a political subdivision to exercise any other powers vested in him or her under the Arkansas Constitution or statutes or common law of this state independent of, or in conjunction with, any provision of this chapter.

History. Acts 1973, No. 511, § 4; 1985, No. 687, § 3; 1985, No. 978, § 3; A.S.A. 1947, § 11-1937.

12-75-105. Status of civil defense employees.

(a)(1) Nothing in this chapter shall be construed as affecting the employment status of personnel employed by the Executive Office of Civil Defense and Disaster Relief on March 30, 1973.

(2) Such personnel shall continue to be employed under the provisions of the Merit System Council in the Arkansas Department of Emergency Management.

(b) The Merit System Council shall effect such changes in job descriptions and position titles as necessary to meet the requirements of this chapter.

History. Acts 1973, No. 511, § 23; substituted "Arkansas Department of A.S.A. 1947, § 11-1956; Acts 1999, No. Emergency Management" for "State Office 646, § 12. of Emergency Services" in (a)(2); and made stylistic changes.

Amendments. The 1999 amendment

12-75-106. Enforcement.

(a) It shall be the duty of every organization for emergency services established pursuant to this chapter and of the officers thereof to execute and enforce such orders, rules, and regulations as may be made by the Governor under authority of this chapter.

(b) Each such organization shall have available for inspection at its office all orders, rules, and regulations made by the Governor or made under his or her authority.

History. Acts 1973, No. 511, § 27; A.S.A. 1947, § 11-1957.

12-75-107. Declaration of disaster emergencies.

(a)(1) A disaster emergency shall be declared by executive order or proclamation of the Governor if he or she finds a disaster has occurred or that the occurrence or the threat of disaster is imminent, except that, in the case of a disaster of the type described in § 12-75-103(2)(B), no executive order or proclamation of the Governor or the Director of the Arkansas Department of Emergency Management or his or her designee need be declared to exist at the instance of the disaster's occurrence.

(2) When time is critical because of rapidly occurring disaster emergency events, the Governor may verbally declare for immediate response and recovery purposes until the formalities of a written executive order or proclamation can be completed in the prescribed manner.

(b)(1) The state of disaster emergency shall continue until:

(A) The Governor finds that the threat or danger has passed and terminates the state of disaster emergency by executive order or proclamation; or

(B) The disaster has been dealt with to the extent that emergency conditions no longer exist and the employees engaged in the restoration of utility services have returned to the point of origin.

(2) No state of disaster emergency may continue for longer than sixty (60) days unless renewed by the Governor.

(c)(1) The General Assembly by concurrent resolution may terminate a state of disaster emergency at any time.

(2) Thereupon, the Governor shall issue an executive order or proclamation ending the state of disaster emergency.

(d)(1) All executive orders or proclamations issued under this section shall indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought it about or which make possible termination of the state of disaster emergency.

(2) In the case of a disaster of the type described in § 12-75-103(2)(B), each provider of utility services whose services were interrupted shall prepare a report describing:

(A) The type of disaster emergency;

(B) The duration of the disaster emergency, which includes the time the utility personnel is dispensed to the work site and returns to the personnel's point of origin; and

(C) The personnel utilized in responding to the disaster emergency.

(e) An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, filed promptly with the Arkansas Department of Emergency Management, the Secretary of State, and the county or city clerk of the political subdivision to which it applies.

(f) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

History. Acts 1973, No. 511, § 8; A.S.A. 1947, § 11-1941; Acts 1999, No. 646, §§ 13, 14; 1999, No. 913, § 2; 2001, No. 1278, § 1.

Amendments. The 1999 amendment by No. 646 added the last sentence in (a); and substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (e).

The 1999 amendment by No. 913, rewrote (a) and (b); added (d)(2); substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (e); and made stylistic changes.

The 2001 amendment substituted "sixty (60) days" for "thirty (30) days" in (b)(2).

12-75-108. Local disaster emergencies — Declaration.

(a)(1) A local disaster emergency may be declared only by the chief executive of a political subdivision.

(2) It shall not be continued or renewed for a period in excess of sixty (60) days except by or with the consent of the governing body of the political subdivision.

(3) Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the city or county clerk, as applicable.

(b)(1) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or interjurisdictional disaster emergency plans and to authorize the furnishing of aid and assistance thereunder.

(2)(A) In addition to other powers conferred on the chief executive declaring a local disaster emergency, the chief executive may suspend the provisions of any local regulatory ordinances or regulations for up to thirty (30) days if strict compliance with the ordinance provisions would prevent, hinder, or delay necessary actions to cope with the disaster emergency.

(B) Local regulatory ordinances include, but are not limited to:

- (i) Zoning ordinances;
- (ii) Subdivision regulations;
- (iii) Regulations controlling the development of land;
- (iv) Building codes;
- (v) Fire prevention codes;
- (vi) Sanitation codes;
- (vii) Sewer ordinances;
- (viii) Historic district ordinances; and
- (ix) Any other regulatory type ordinances.

(c)(1) No interjurisdictional agency or official thereof may declare a local disaster emergency unless expressly authorized by the agreement pursuant to which the agency functions.

(2) However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions.

History. Acts 1973, No. 511, § 13; A.S.A. 1947, § 11-1946; 2001, No. 568, § 1; 2001, No. 1278, § 2.

Amendments. The 2001 amendment by No. 568 redesignated the former (b) as the present (b)(1); inserted (b)(2); and re-

designated the former (c) as the present (c)(1) and (c)(2).

The 2001 amendment by No. 1278 substituted "sixty (60) days" for "seven (7) days" in (a)(2).

12-75-109. Arkansas Department of Emergency Management — Establishment — Personnel.

(a) The Arkansas Department of Emergency Management is established as a public safety agency of the State of Arkansas.

(b) The department shall have a director appointed by the Governor, with the advice and consent of the Senate, who shall serve at the pleasure of the Governor.

(c)(1) The department shall have such professional, technical, secretarial, and clerical employees and may make such expenditures within the appropriation therefor or from any federal or other funds made available to it from any source whatsoever for the purpose of emergency services, as may be necessary to carry out the purposes of this chapter.

(2) All such employees shall be in job positions as approved by the Merit System Council.

(d) The present Office of Fire Protection Services, established under § 20-22-805, and the State Office of Hazardous Materials Emergency Management established under § 12-84-104, are abolished as independent and separate offices and reestablished with personnel, duties, and responsibilities as functional programs within the department.

(e)(1) There is created within the department an emergency reserve cadre to be composed of trained and available specialists to assist regular employees during declared disaster response and recovery operations.

(2) The Director of the Arkansas Department of Emergency Management shall establish training and professional standards required to supplement state personnel based on state and federal disaster recovery program needs and shall establish a list of persons with those qualifications and make available to reserve cadre personnel such additional training and education opportunities as may be needed to maintain currency and proficiency in the needed skills.

(3)(A) Qualified personnel shall be reimbursed at the current state classified entry level salary rate for the position they are temporarily employed to fill and meet such additional training, experience, and qualifications as established by the director for the grade level of the position for which they are employed.

(B) Such personnel shall:

(i) Be paid from disaster management or administrative funds, or both;

(ii) Be limited to salary, logistical, and travel expenses only; and

(iii) Not accrue ordinary leave, sick leave, or other employee benefits except for workers' compensation eligibility for injuries or death suffered in the line of duty.

(4)(A) Such persons shall only be called to active duty upon declaration of a disaster emergency as stipulated in § 12-75-101 et seq. or the Disaster Relief Act of 1973, Pub. L. No. 93-288, or both, or by executive order of the Governor upon recommendation by the director for due cause or pending emergency needs and shall remain on active duty no longer than sixty (60) days after a declaration or declarations unless such declaration or declarations are extended by the Governor or the President of the United States, in which case they shall be continued for no more than sixty (60) days after the final declaration issued for that disaster emergency event.

(B) Based on the size, impact, and magnitude of the disaster event, the director shall determine the minimum number of reserve personnel required to effectively supplement regular state emergency management personnel and report these numbers to the Governor for approval.

(5) While in such service, the individuals so employed shall have the same immunities as regular state employees for good faith performance of their designated and assigned official duties under state sovereignty laws and practices.

History. Acts 1973, No. 511, § 5; 1977, No. 408, § 1; 1985, No. 687, § 4; 1985, No. 978, § 4; A.S.A. 1947, § 11-1938; Acts 1999, No. 646, § 15; 2001, No. 1278, § 3.

Publisher's Notes. Acts 1981, No. 45, § 10, provided, in part, that the Office of

Emergency Services, which was established as a division of the Arkansas Department of Public Safety, and all its powers, functions, duties, personnel, and funds would be separated from the Department of Public Safety (abolished by

Acts 1981, No. 45, § 1) and would thereafter function as a separate agency to be known as the Office of Emergency Services.

The section further provided that the act should not be construed to reduce any right which an employee of the Office of Emergency Services of the Arkansas Department of Public Safety would have under any civil service or merit system.

Acts 1999, No. 646, § 1, provided that: "The State Office of Emergency Services shall hereafter be known as the Arkansas Department of Emergency Management. Any provisions of the Arkansas Code not corrected by this act shall be corrected by

the Arkansas Code Revision Commission to reflect the title "Arkansas Department of Emergency Management" instead of "State Office of Emergency Services" or any similar titles that now apply to the State Office of Emergency Services."

Amendments. The 1999 amendment substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (a); substituted "department" for "office" in (b) and (c); added (d); and made stylistic changes.

The 2001 amendment added (e).

Cross References. Emergency Volunteer Reserve Act of 1995, § 12-83-101 et seq.

12-75-110. Arkansas Department of Emergency Management — State disaster plan.

(a) The Arkansas Department of Emergency Management shall prepare and maintain a state disaster plan and keep it current, which plan may include:

(1) Prevention and minimization of injury and damage caused by disaster;

(2) Measures for prompt and effective response to disasters;

(3) Emergency relief;

(4) Identification of areas particularly vulnerable to disasters;

(5) Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(6) Assistance to local officials in designing local emergency action plans;

(7) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disasters;

(8) Preparation and distribution to appropriate state and local officials of state catalogues of federal, state, and private assistance programs;

(9) Organization of manpower and the establishment of chains of command;

(10) Coordination of federal, state, and local disaster activities;

(11) Coordination of the state disaster plan with the disaster plans of the federal government;

(12) Establishment of the criteria and definitions for determining catastrophic losses suffered by both individuals and public entities and the enhanced levels of assistance to be provided upon the declaration of a catastrophic loss disaster; and

(13) Other necessary matters.

(b)(1) In preparing and revising the state disaster plan, the department shall seek the advice and assistance of state agencies, local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(2) In advising local and jurisdictional agencies, the department shall encourage them also to seek advice from these sources.

(c) The state disaster plan or any part thereof may be incorporated in regulations of the department or executive orders which have the force and effect of law.

History. Acts 1973, No. 511, § 5; 1977, No. 408, § 1; A.S.A. 1947, § 11-1938; Acts 1999, No. 449, § 6; 1999, No. 646, § 16.

Amendments. The 1999 amendment by No. 449 added current (a)(12); and made stylistic changes.

The 1999 amendment by No. 646 substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" throughout the section; substituted "department" for "office" in (b)(2); and made stylistic changes.

12-75-111. Arkansas Department of Emergency Management — Other powers and duties.

(a) The Arkansas Department of Emergency Management shall, with the assistance and cooperation of other state and local government agencies:

(1) Determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of an emergency;

(2) Procure and pre-position supplies, medicines, materials, and equipment;

(3) Promulgate standards and requirements for local and interjurisdictional disaster plans;

(4) Periodically review local and interjurisdictional disaster plans;

(5) Provide for mobile support units;

(6) Establish and operate or assist political subdivisions, their disaster agencies, and interjurisdictional disaster agencies to establish and operate training programs and programs of public information;

(7) Make surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter;

(8) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;

(9) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;

(10) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;

(11) Prepare for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters;

(12) Cooperate with the federal government and any public or private agency or entity in achieving the purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and

(13) Do other things necessary, incidental, or appropriate for the implementation of this chapter.

(b)(1) The department shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under § 12-75-118.

(2)(A) To this end, the department shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies.

(B) These personnel shall consult with subdivisions and agencies on a regularly scheduled basis and shall make field examinations of the area, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply and may suggest or require revisions.

History. Acts 1973, No. 511, § 5; 1977, No. 408, § 1; A.S.A. 1947, § 11-1938; Acts 1999, No. 646, § 17.

Amendments. The 1999 amendment substituted “Arkansas Department of

Emergency Management” for “State Office of Emergency Services” in the introductory paragraph of (a) and (b)(1); and made stylistic changes.

12-75-112. Communications networks.

(a) The Arkansas Department of Emergency Management shall operate and maintain information systems which will make available both voice and data links with the Federal Emergency Management Agency, other federal agencies, other states, state agencies as are assigned an emergency management role in the State of Arkansas Emergency Operations Plan, and local offices of emergency management.

(b) In addition to these minimum requirements, additional information systems networks may be established as deemed necessary by the Director of the Arkansas Department of Emergency Management.

History. Acts 1973, No. 511, § 5; 1977, No. 408, § 1; 1985, No. 687, § 4; 1985, No. 978, § 4; A.S.A. 1947, § 11-1938; Acts 1999, No. 646, § 18.

Amendments. The 1999 amendment rewrote this section.

12-75-113. Emergency response vehicles.

(a) Due to the time-critical nature of response to the scene of a disaster or major emergency occurrence, the Director of the Arkansas Department of Emergency Management is authorized to designate appropriate vehicles as requested in the staffing patterns of the state and local offices of emergency services and other state agency vehicles

with an emergency service response requirement as emergency response vehicles.

(b) Designated state and local government emergency response vehicles under this chapter shall share the same privileges and immunities regarding traffic laws and ordinances as other emergency vehicles as defined by state law.

(c) Emergency vehicles authorized by this chapter shall be identified by a flashing light or rotating beacon which will be green in color.

(d) When responding to an emergency, the designated emergency vehicle shall have flashing lights or rotating beacon activated and must be equipped with and operating a siren device.

History. Acts 1973, No. 511, § 8; 1985, No. 687, § 6; 1985, No. 978, § 6; A.S.A. 1947, § 11-1941; Acts 1999, No. 646, § 19.

substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (a).

Amendments. The 1999 amendment

12-75-114. Governor — Disaster emergency responsibilities.

(a) The Governor is responsible for meeting and mitigating, to the maximum extent possible, dangers to the people and property of the state presented or threatened by disasters.

(b)(1) Under this chapter, the Governor may issue executive orders, proclamations, and regulations and amend or rescind them.

(2) Executive orders, proclamations, and regulations have the force and effect of law.

(c)(1) There is created within the office of the Governor a disaster response fund, a disaster recovery fund, a catastrophic loss fund, and a hazard mitigation fund, which shall be separate and apart from the Governor's standard emergency fund.

(2) The initial amount of the disaster response fund shall be in the amount of one million dollars (\$1,000,000), the disaster recovery fund shall be in the amount of three million dollars (\$3,000,000), and the hazard mitigation fund shall be in the amount of three million dollars (\$3,000,000), with:

(A) The sum of one million dollars (\$1,000,000) from the disaster recovery fund solely for use in individual assistance;

(B) The sum of two million dollars (\$2,000,000) from the disaster recovery fund solely for use in public assistance;

(C) The sum of two million two hundred fifty thousand dollars (\$2,250,000) from the hazard mitigation fund solely for use in hazard mitigation assistance;

(D) The sum of one million dollars (\$1,000,000) solely for use to defray the cost of immediate emergency response; and

(E) The sum of three million two hundred fifty thousand dollars (\$3,250,000) from the catastrophic loss fund solely for use in catastrophic losses suffered by both individuals and public entities.

(3) The Governor's disaster fund may be increased from time to time at the discretion of the Governor.

(4) Expenditures from the individual assistance and public assistance funds may only be made in the event of a disaster as defined in § 12-75-103(2) and only upon proclamation by the Governor.

(5) Expenditures from the emergency response fund shall be made by executive order of the Governor, upon recommendation and verification by the Director of the Arkansas Department of Emergency Management, and may only be made to defray immediate costs associated with response activities by emergency forces of state and local governments and private nonprofit forces duly registered in accordance with § 12-75-127.

(6)(A) Expenditures from the hazard mitigation fund shall be made by executive order of the Governor.

(B) The director shall establish and maintain a current hazard vulnerability analysis of key critical public facilities eligible for assistance under the Governor's hazard mitigation fund.

(7)(A) Expenditures from the catastrophic loss fund may only be made in the event of a federally declared disaster, as well as a disaster as defined in § 12-75-103(2), and only upon a separate proclamation by the Governor that a disaster has occurred in which catastrophic losses have been suffered by individuals or public entities in the state, or both.

(B) The director shall establish and maintain such criteria as are necessary to administer the funds authorized for catastrophic loss.

(d)(1) During the continuance of any state of disaster emergency, the Governor is Commander-in-Chief of all forces available for emergency duty.

(2) To the greatest extent practicable, the Governor shall delegate or assign operational control by prior arrangement embodied in appropriate executive orders or regulations, but nothing in this section restricts the Governor's authority to do so by orders issued at the time of the disaster emergency.

(e) In addition to any other powers conferred upon the Governor by law, the Governor may:

(1) Suspend the provisions of any regulatory statutes prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(3) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(4) Subject to any applicable requirements for compensation under § 12-75-124, commandeer or utilize any private property if he or she finds this necessary to cope with the disaster emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the Governor

deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; and

(9) Make provision for the availability and use of temporary emergency housing.

History. Acts 1973, No. 511, § 8; 1985, No. 629, § 2; A.S.A. 1947, § 11-1941; Acts 1993, No. 1049, § 3; 1995, No. 116, § 2; 1999, No. 449, § 7; 1999, No. 646, §§ 20, 21; 2001, No. 1278, § 4.

Amendments. The 1999 amendment by No. 449 rewrote (c)(2); substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (c)(5) and (c)(6)(B); added (c)(7); and made stylistic changes.

The 1999 amendment by No. 646 rewrote (c)(2); and substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (c)(5) and (c)(6).

The 2001 amendment, in (c)(2), substituted "one million dollars (\$1,000,000)" for "five hundred thousand dollars (\$500,000)" in the introductory language and in (c)(2)(D), substituted "three million dollars (\$3,000,000)" for "two million dollars (\$2,000,000)" in the introductory language; substituted "two million two hundred fifty thousand dollars (\$2,250,000)" for "two million dollars (\$2,000,000)" in (c)(2)(C); substituted "three million two hundred fifty thousand dollars (\$3,250,000)" for "four million dollars (\$4,000,000)" in (c)(2)(E); and made stylistic changes throughout the section.

12-75-115. Disaster prevention generally.

(a)(1) In addition to disaster prevention measures as included in the state, local, and interjurisdictional disaster plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters.

(2) At the Governor's direction, and pursuant to any other authority and competence state agencies have, including, but not limited to, those charged with responsibilities in flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards shall make studies of disaster prevention-related matters.

(3) These studies will be furnished to the Governor and the Arkansas Department of Emergency Management as soon as possible after completion and shall concentrate on means of reducing or avoiding damage caused by possible disasters or their consequences thereof.

(4) The Governor, from time to time, shall make recommendations to the General Assembly, local government, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b)(1) If the department believes, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of

catastrophic proportions without adequate warning, that existing building standards and land use control in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor.

(2) If the Governor, upon review of the recommendation, finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter.

(3) If no action or insufficient action pursuant to the Governor's recommendations is taken within the time specified by the Governor, he or she shall so inform the General Assembly and request legislative action appropriate to mitigate the impact of disaster.

(c)(1) At the same time that the Governor makes his or her recommendations pursuant to subsection (b) of this section, the Governor may suspend the standard or control which he or she finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect.

(2) The new standard or control shall remain in effect until rejected by concurrent resolution of both houses of the General Assembly or amended by the Governor.

(3) During the time it is in effect, the standard or control contained in the Governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies.

(4) The Governor's action is subject to judicial review in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., but shall not be subject to temporary stay pending litigation.

History. Acts 1973, No. 511, § 14; 1977, No. 408, § 5; 1981, No. 891, § 3; A.S.A. 1947, § 11-1947; Acts 1999, No. 646, §§ 22, 23.

substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (a)(3) and (b)(1); and made a stylistic change.

Amendments. The 1999 amendment

12-75-116. State and local governmental entities — Liaison officers.

(a)(1) It is the policy of this chapter that each department, commission, agency, or institution of state and local government actively and aggressively support the state and local offices of emergency services to the end of providing the best possible preparation for and response to any emergency situation which may occur.

(2) In furtherance of this policy, it is directed that the head of each state department, commission, agency, or institution with an emergency management role or responsibility appoint a member or members of his or her staff as agency emergency services liaison officer or officers to act on his or her behalf in ensuring the agency's capability to fulfill its role in emergency services activities.

(b) It will be the responsibilities of this officer to:

(1) Maintain close and continuous liaison with the Arkansas Department of Emergency Management, as applicable;

(2) Prepare agency annexes to the state and, as applicable, local emergency operations plans which are compatible with this chapter and with guidance provided by the department;

(3) Maintain files of agency resources to include personnel, facilities, and equipment available for disaster operation;

(4) Ensure that the agency can respond promptly and cooperatively with other agencies in any disaster or major emergency situation under the overall management of the department;

(5) Advise, assist, and evaluate the capabilities of counterpart local or federal government agencies in preparing for and carrying out disaster operations;

(6) Designate personnel available for assignment to mobile support units and train such personnel in the tasks to be performed; and

(7) Perform other related functions necessary to carry out the purpose of this chapter.

(c) As conditions or situations may require or dictate, the Director of the Arkansas Department of Emergency Management may request a state department, agency, or institution not currently participating in the emergency services liaison officer program to appoint an officer in accordance with this section.

(d) Nothing in the subsections (a)-(c) of this section shall be interpreted as relieving or otherwise abridging the responsibility and authority of agency directors in carrying out disaster operations for which their agencies are solely responsible.

History. Acts 1973, No. 511, § 7; 1985, No. 687, § 5; 1985, No. 978, § 5; A.S.A. 1947, § 11-1940; Acts 1993, No. 1049, § 4; 1999, No. 646, § 24.

substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" throughout (b) and (c); and inserted "such" in (b)(6).

Amendments. The 1999 amendment

12-75-117. Interjurisdictional disaster planning and service areas.

(a)(1)(A) By executive order, the Governor may combine two (2) or more established local offices of emergency services as an interjurisdictional office of emergency services.

(B)(i) Prior to such combination, the jurisdictions involved shall prepare for the Governor's approval a written mutual agreement that specifies how and by whom the emergency services coordinator shall be appointed.

(ii) The agreement shall also include specific provisions addressing the funding, administration, staff, and operational control of the interjurisdictional office.

(C) The interjurisdictional office of emergency services shall meet the same minimum standards and requirements as a single-jurisdiction office of emergency services in order to maintain eligibility for

state and federal emergency management funding and program assistance.

(2) A finding of the Governor pursuant to this subsection shall be based on an assessment conducted by the Director of the Arkansas Department of Emergency Management using one (1) or more factors related to the difficulty of maintaining an efficient, effective, and economical system for disaster and emergency preparedness, mitigation, response, and recovery such as:

(A) Small or sparse population;

(B) Limitations on public financial resources severe enough to make maintenance of a separate established local office of emergency services unreasonably burdensome;

(C) Unusual vulnerability to disasters and emergencies based on geographical, geological, hydrological, meteorological, or technological disaster potential; and

(D) Other relevant conditions or circumstances.

(b)(1) If the Governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster, he or she shall take steps toward that end as may be desirable.

(2) If this action is taken with jurisdictions having enacted the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., any resulting agreement or agreements may be considered supplemental agreements pursuant to Article VI of that compact.

(3)(A) If the other jurisdiction or jurisdictions with which the Governor proposes to cooperate pursuant to subdivisions (b)(1) and (2) of this section have not enacted that compact, then he or she may negotiate a special agreement with the jurisdiction or jurisdictions.

(B) Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after its text has been communicated to the General Assembly and neither house of the General Assembly has disapproved it by adjournment of the next ensuing session competent to consider it or within thirty (30) days of its submission, whichever is longer.

History. Acts 1973, No. 511, § 11; A.S.A. 1947, § 11-1944; Acts 1993, No. 1049, § 5; 1999, No. 646, § 25.

substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in the introductory paragraph of (a)(2).

Amendments. The 1999 amendment

12-75-118. Local and interjurisdictional disaster agencies and services.

(a)(1) Each political subdivision within this state shall be within the jurisdiction of and served by the Arkansas Department of Emergency Management and by a local or interjurisdictional office of emergency services.

(2) Local or interjurisdictional offices of emergency management shall be established as public safety agencies of their respective

political subdivisions and be under the direction and control of the appropriate chief executive for the purposes of mitigation of, planning for, response to, and recovery from disaster and major emergency occurrences and for operation of public safety information networks.

(b)(1) Each county within the state and those municipalities specifically designated by the Governor shall establish, fund, and maintain an established local office of emergency services or, as necessary, make arrangements through an interjurisdictional agreement to receive such services.

(2) Unless a municipality has been specifically designated as a local organization of emergency services, it shall receive emergency services support from the county or counties within which its corporate limits are situated.

(c)(1) The Governor shall determine if additional municipal or interjurisdictional offices of emergency services are required based on an assessment conducted by the Director of the Arkansas Department of Emergency Management using one (1) or more of the factors enumerated in § 12-75-117(a).

(2) The department shall publish and keep current a list of municipalities required to have offices of emergency services under this subsection.

(d) Any provision of this chapter or other law to the contrary notwithstanding, the Governor may require a political subdivision to establish and maintain an office of emergency services jointly with one (1) or more contiguous political subdivisions if he finds that the establishment and maintenance of any agency or participation therein is made necessary by circumstances or conditions that make it unusually difficult to provide disaster or major emergency prevention, preparedness, response, or recovery services under other provisions of this chapter.

(e) Each political subdivision which does not have an office of emergency services and has not made arrangements to secure or participate in the services of an agency shall have a liaison officer designated to facilitate the cooperation and protection of that subdivision in the work of disaster and major emergency prevention, preparedness, response, and recovery.

(f)(1) The chief executive of each political subdivision shall exercise comparable authority within his or her political subdivision, and within the limits of the Arkansas Constitution and laws of the state, as the Governor exercises over the state government during disasters and major emergencies. The chief executive shall ensure, to the maximum extent possible, that his or her jurisdiction meets the minimum expected capability for disaster and emergency mitigation, planning, response, and recovery.

(2) The chief executive shall notify the department of the manner in which the political subdivision is providing or securing disaster planning and emergency services, provide a staffing pattern for the local office of emergency services, identify the person who heads the local

office, and furnish additional information relating thereto as the department requires.

(g)(1) Each local and interjurisdictional office of emergency services shall prepare and keep current an emergency operations plan for its area.

(2)(A) The basic plan and all annexes must be approved by the office of emergency services of the political subdivision and receive concurrence of the chief executive.

(B) The plan must then be submitted to the department for approval prior to implementation.

(h) The local or interjurisdictional office of emergency services, as the case may be, shall prepare a statement. This statement shall be distributed to all appropriate officials in written form and shall be a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster and major emergency chain of command.

(i)(1)(A) The county judge of each county and the chief executive officer of those municipal jurisdictions specifically designated as established offices of emergency services shall appoint an emergency services coordinator for their respective offices of emergency services.

(B) The written mutual agreement between the participating jurisdictions in an interjurisdictional office of emergency services, executed pursuant to § 12-75-117(a), shall govern the appointment of the emergency services coordinator of the interjurisdictional office.

(C) The emergency services coordinator shall act for and on behalf of the appropriate chief executive officer to manage and coordinate the functions, duties, and activities of the established local office of emergency services.

(2) The local emergency services coordinator and such supporting staff of an established local office of emergency services as may be employed in part, or in whole, by state and federal emergency management program funds, shall be responsible for meeting all standards and requirements stipulated for funding under the programs.

(3)(A) The director shall establish and periodically review criteria necessary to ensure compliance with minimum standards and requirements.

(B) Failure to meet or maintain minimum standards and requirements or noncompliance with any part of this chapter by an established local office of emergency services may result in a decision by the director to reduce, withhold, or terminate partial or full funding for any or all offices of emergency services programs in which the political subdivision participates or for which it may be otherwise eligible.

(j)(1) Local offices of emergency management shall operate and maintain as a minimum an information systems link with the department.

(2)(A) When authorized by the chief executive of the political subdivision and properly staffed, the local office of emergency services may

operate a public safety communications center for the purposes of coordination, dispatch, and information services for local government public safety agencies and private or volunteer agencies with an emergency service mission.

(B) The public safety communications center must be staffed by paid office of emergency services public safety officers of the political subdivision and operate on a continuous basis if it is to serve as a law enforcement or fire dispatch and service center.

History. Acts 1973, No. 511, § 10; 1977, No. 408, § 4; 1985, No. 687, § 7; 1985, No. 978, § 7; A.S.A. 1947, § 11-1943; Acts 1993, No. 1049, § 6; 1999, No. 646, §§ 26-31.

Amendments. The 1999 amendment substituted "Arkansas Department of

Emergency Management" for "State Office of Emergency Services" throughout the section; in (a)(2), substituted "management" for "services" and "information" for "communication"; substituted "department" for "state office" in (f)(2); rewrote (j)(1); and made stylistic changes.

12-75-119. Mutual aid.

(a)(1) Political subdivisions not participating in interjurisdictional arrangements pursuant to this chapter nevertheless shall be encouraged and assisted by the Arkansas Department of Emergency Management to conclude suitable arrangements for furnishing mutual aid in coping with disaster.

(2) The arrangements shall include provision of aid by persons and units in public employ.

(b) In passing upon local disaster plans, the Governor shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.

(c)(1) It is a sufficient reason for the Governor to require an interjurisdictional agreement or arrangement pursuant to § 12-75-117 that the area involved and political subdivisions therein have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the political subdivisions have not already made adequate provision for mutual aid.

(2) However, in requiring the making of an interjurisdictional arrangement to accomplish the purpose of this section, the Governor need not require establishment and maintenance of an interjurisdictional agency or arrangement for any other disaster purposes.

(d)(1) Mutual aid agreements between political subdivisions are encouraged, thereby providing each political subdivision with a larger complement of resources.

(2) The coordinators of the offices of emergency services of the participating political subdivisions will approve mutual aid agreements, which will become effective upon concurrence of the chief executives of the participating subdivisions or the head of a private or volunteer agency.

(e) Public safety communications centers of the office of emergency services of the participating political subdivisions may coordinate and dispatch public safety and governmental agencies of their political

subdivision and, through mutual aid agreements, the public safety and governmental agencies of adjacent or multiple political subdivisions on a day-to-day basis, thus permitting consolidation of resources and improved response and coordination.

(f)(1)(A) To provide resources for immediate aid, assistance, and unimpeded response and recovery operations within and between the various political subdivisions of this state, a de facto mutual aid agreement shall exist between counties and municipalities therein and between all counties within the state upon declaration of a disaster emergency by the Governor and in accordance with § 12-75-107(a)(1).

(B) This condition shall exist until the disaster emergency shall have ended.

(2) Resources deployed from one (1) jurisdiction to another under this provision shall remain under the control of and may be withdrawn at the discretion of the providing jurisdiction's chief executive.

(3) Because of the immediate need for the preservation of lives and property in a disaster emergency, formal and specific terms between the dispatching and receiving jurisdictions for monetary or in-kind reimbursement, or both, of expenses incurred may be delayed until the situation has been stabilized and local administrative functions have been reestablished.

History. Acts 1973, No. 511, § 12; 1985, No. 687, § 8; 1985, No. 978, § 8; A.S.A. 1947, § 11-1945; Acts 1993, No. 1049, § 7; 1999, No. 646, § 32; 2001, No. 1278, § 5.

substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (a)(1); and made stylistic changes.

The 2001 amendment added (f).

Amendments. The 1999 amendment

12-75-120. Mobile support units.

(a) The Governor or his or her duly designated representative is authorized to create and establish such number of mobile support units as may be necessary to reinforce disaster organizations in stricken areas and with due consideration of the plans of the federal government and of other states.

(b) The Governor shall appoint a commander for each unit who shall have primary responsibility for the organization, administration, and operation of such unit.

(c) Mobile support units shall be called to duty upon orders of the Governor or his or her director and shall perform their functions in any part of this state or, upon the conditions specified in this section, in other states.

(d) Personnel of mobile support units while on duty, whether within or without this state, shall:

(1) If they are employees of this state have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment;

(2) If they are employees of a political subdivision of this state and whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; and

(3) If they are not employees of this state or a political subdivision thereof, be entitled to compensation by this state for expenses incidental to their services and to the same rights and immunities as are provided by law for the employees of this state.

(e) All personnel of mobile support units, while on duty, shall be subject to the operational control of the authority in charge of disaster activities in the area in which they are serving and shall be reimbursed for all actual and necessary travel and subsistence expenses.

History. Acts 1973, No. 511, § 9; 1977, No. 408, § 3; 1981, No. 891, § 2; A.S.A. 1947, § 11-1942.

12-75-121. Utilization of existing services and facilities.

(a) In carrying out the provisions of this chapter, the Governor and the chief executives or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable.

(b) The officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the emergency services organization of the state upon request.

History. Acts 1973, No. 511, § 19; A.S.A. 1947, § 11-1952.

12-75-122. Political activity prohibited.

No organization for emergency services established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

History. Acts 1973, No. 511, § 20; A.S.A. 1947, § 11-1953.

12-75-123. Appropriations and authority to accept services, gifts, grants, and loans.

(a) Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency services.

(b)(1) Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds

by way of gift, grant, or loan, for purposes of emergency services or natural disaster relief, the state, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its chief executive or governing body, may accept such offer.

(2) Upon such acceptance, the Governor of the state or chief executive or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(c)(1) Whenever any person, firm, or corporation shall offer to the state, or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency services, the state, acting through the Governor, or such political subdivision, acting through its chief executive or governing body, may accept such offer.

(2) Upon such acceptance, the Governor of the state, or chief executive or governing body of such political subdivision may authorize any officer of the state, or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state, or such political subdivision and subject to the terms of the offer.

History. Acts 1973, No. 511, § 18;
A.S.A. 1947, § 11-1951.

12-75-124. Compensation for services and property.

(a)(1) Each person within this state shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency.

(2) This chapter neither increases nor decreases these obligations but recognizes their existence under the Arkansas Constitution and statutes of this state and the common law.

(3) Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this chapter are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation.

(b) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law or ordinance.

(c) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency

and its use or destruction was ordered by the Governor or a member of the disaster emergency forces of this state.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim therefor with the Arkansas State Claims Commission in the form and manner the commission provides.

(e) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the commission, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

(f) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

History. Acts 1973, No. 511, § 15;
A.S.A. 1947, § 11-1948.

12-75-125. Donation of property or equipment — Immunity.

(a) Any person owning or controlling real estate or other premises who voluntarily and with or without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice attack shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises for loss of or damage to the property of such person.

(b) The immunity in subsection (a) of this section shall extend to those persons who have voluntarily and with or without compensation granted the use of automotive vehicles, boats or similar equipment, or aircraft for use under the circumstances described in subsection (a) of this section.

History. Acts 1973, No. 511, § 17;
A.S.A. 1947, § 11-1950.

12-75-126. Public safety officers.

(a) The Director of the Arkansas Department of Emergency Management and persons he or she may designate from the state and local offices of emergency services staffing patterns shall be sworn public safety officers as defined and limited by this chapter.

(b) Determination of the need for such designation shall be based on the persons' responsibilities in mitigation of, planning for, response to, and recovery from disasters or major emergency occurrences and for public safety communications operations.

History. Acts 1973, No. 511, § 21; 1985, No. 687, § 9; 1985, No. 978, § 9; A.S.A. 1947, § 11-1954; Acts 1999, No. 646, § 33.

Amendments. The 1999 amendment

substituted “Arkansas Department of Emergency Management” for “State Office of Emergency Services” in (a); and made a stylistic change.

12-75-127. Emergency services workers — Eligibility — Oath — Uniform.

(a) No person shall be employed or associated in any capacity in any emergency services organization established under this chapter who:

(1) Advocates or has advocated a change by force or violence in the constitutional form of the United States Government or of this state or the overthrow of any government in the United States by force or violence; or

(2) Has been convicted or is under indictment or information charging any subversive act against the United States.

(b) Each person who is appointed to serve in the organization for emergency services shall, before entering upon his or her duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

“I, , do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Arkansas, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

(c)(1)(A) The Director of the Arkansas Department of Emergency Management may determine what is to constitute an Arkansas Department of Emergency Management uniform for department personnel.

(B) Likewise, the chief executive of a local office of emergency services may determine, as deemed necessary, what is to constitute a uniform for his or her jurisdiction.

(2) The uniform may include a badge or identification card, or both, of appropriate design and dimensions to identify local office of emergency services personnel as bona fide emergency services workers within their jurisdiction and department personnel as bona fide emergency workers for the State of Arkansas.

(d) All persons issued or provided such badge, identification, or uniform shall wear, carry, or display it at such times and places as shall be designated or required by the chief executive of the local jurisdiction for local office of emergency services personnel and by the director for department personnel.

History. Acts 1973, No. 511, § 21; A.S.A. 1947, § 11-1954; Acts 1989, No. 853, § 1; 1999, No. 646, § 34.

Amendments. The 1999 amendment substituted “Arkansas Department of Emergency Management” for “State Office

of Emergency Services" throughout (c) and (d); and substituted "department personnel" for "state office personnel" in the first

sentence of (c)(1)(A); and made stylistic changes.

12-75-128. Emergency services workers — Immunities and exemptions.

(a) All functions under this chapter and all other activities relating to emergency services are declared to be governmental functions.

(b) No emergency services worker, except in cases of willful misconduct, gross negligence, or bad faith, when complying with or reasonably attempting to comply with this chapter, or any other rule or regulation promulgated pursuant to the provisions of this section or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity.

(c) The foregoing immunity shall extend to both emergency services workers who are employees and to qualified emergency services workers who are volunteers.

(d) The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this chapter, under the Workers' Compensation Law, § 11-9-101 et seq., or under the pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

(e)(1) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency service worker who shall, in the course of performing his or her duties as such, practice such professional, mechanical, or other skill during an emergency.

(2) However, subdivision (e)(1) of this section shall not apply to required medical licenses except in cases of first aid treatment.

(f) As used in this chapter, the term "emergency service worker" shall include those persons qualified under § 12-75-103(13) and any full-time or part-time paid, volunteer, or auxiliary employees of this state or other states, territories, possessions, or the District of Columbia, the federal government, any neighboring country, or any political subdivision thereof, or of any agency or organization performing emergency preparedness services at any place in this state subject to the order or control of, or pursuant to, a request of the state government or any political subdivision thereof.

(g) Any emergency services worker, as defined in this section, performing emergency preparedness services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or a political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges he or she would ordinarily possess if performing his or her duties in the state, province, or political subdivision thereof in which normally employed or rendering services.

History. Acts 1973, No. 511, § 16; 1981, No. 891, § 4; A.S.A. 1947, § 11-1949.

12-75-129. Emergency services workers — Workers' compensation benefits.

(a)(1) Benefits payable for the injury or death of persons appointed and regularly enrolled in accredited emergency services organizations and covered by this chapter, while actually engaged in emergency service duties either during training or during a period of emergency and subject to the order or control of or pursuant to a request of and under the supervision and instruction of the Governor, the Arkansas Department of Emergency Management, the chief executive or the designated director of a department, or a county of an accredited local government unit making use of emergency service volunteer workers shall be limited to the provisions of the Workers' Compensation Law, § 11-9-101 et seq., if such persons are regularly employed by a local government or the State of Arkansas.

(2) If such person is a qualified emergency services volunteer worker of the State of Arkansas or an accredited local organization for emergency services, recovery shall be limited as provided in this section.

(b) The remedy provided in this section shall be the exclusive remedy as against the state and political subdivisions thereof.

(c)(1) For the purpose of workers' compensation coverage in cases of injury to or death of an individual, all duly registered and qualified emergency services volunteer workers shall be deemed local government or state employees and shall receive compensation, and their survivors shall receive death benefits in like manner as regular local government or state employees for injury or death arising out of and in the course of their activities as emergency services volunteer workers.

(2) If a volunteer worker is injured or killed while subject to the order or control of an accredited local government, compensation and benefits shall be charged against the applicable local government's experience rate and paid from the appropriate state workers' compensation fund.

(3) If the emergency services volunteer worker was under the order or control of a state agency when injured or killed, compensation and benefits shall be charged against the experience rate of the state agency who exercised order or control at the time of injury or death and paid from the appropriate state workers' compensation fund.

(d)(1) For the purpose of subsection (c) of this section, the weekly compensation benefits for such emergency services volunteer workers who receive no monetary compensation for services rendered as such workers shall be calculated based upon the wages received from their regular or usual employments, the same as a regular local or state employee, with respect to injury, disability, or death.

(2) The reimbursement of twenty-five dollars (\$25.00) or less for out-of-pocket expenses incurred in response to an emergency situation, such as gasoline, oil, uniforms, and required equipment, etc., shall not be construed as monetary compensation for the volunteer worker.

(e)(1) In the event that any person who is entitled to receive benefits through the application of subsection (c) of this section receives, in connection with the injury, disability, or death giving rise to such entitlement, benefits under an act of Congress or federal program providing benefits for emergency services workers or their survivors, then the benefits payable under this section shall be reduced to the extent of the benefits received under such other act or program.

(2) Any person who performs the duties of a member or trainee as an adjunct to his regular employment and who otherwise would be entitled to receive workers' compensation benefits for his or her injury, disability, or death, if injured in the performance of such duties, shall be deemed to have been injured, disabled, or killed in the course of his or her regular employment.

(f) An emergency services volunteer worker shall be deemed duly registered and qualified when he or she is a member of and has on file in either an accredited local emergency services organization or in the Arkansas Department of Emergency Management the following information:

- (1) Name and address;
- (2) Date enrolled;
- (3) Loyalty oath; and
- (4) Class of service assigned.

(g) Payments and death and disability benefits as provided in this section shall be made from the Workers' Compensation Revolving Fund for state employees.

History. Acts 1973, No. 511, § 22; 1977, No. 408, § 6; 1981, No. 891, § 5; A.S.A. 1947, § 11-1955; Acts 1999, No. 646, §§ 35, 36.

Amendments. The 1999 amendment

substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (a)(1) and the introductory paragraph of (f); and made stylistic changes.

CASE NOTES

Events Not Covered.

Although decedent was a registered emergency service worker for the county and was killed at scene of brushfire, he was not entitled to workers' compensation

under this section because no disaster or catastrophe existed as defined by § 12-75-103. *Office of Emergency Servs. v. Home Ins. Co.*, 2 Ark. App. 185, 618 S.W.2d 573 (1981).

12-75-130. Call-up of retired law enforcement officers.

(a) In emergency situations the Governor, county sheriff, or municipal police chief may authorize and request retired law enforcement officers, including game wardens, to perform law enforcement functions.

(b) In such instances, the retirement benefits of such retired law enforcement officers shall not be interrupted, reduced, or otherwise adversely affected.

History. Acts 1981, No. 31, § 1; A.S.A. 1947, § 11-1958.

Cross References. Retirement of state employees, § 24-4-101 et seq.

12-75-131. Disaster relief pay.

(a)(1) The Arkansas Department of Emergency Management is authorized to provide special compensation to certain employees for each full pay period of eighty (80) hours worked in a job which requires the provision of on-site emergency disaster relief services in cases of wartime, human-made, or natural disasters.

(2) This disaster relief pay covers employees who may be exposed to hazardous or disastrous conditions during the performance of their job duties.

(3)(A) The rate of pay will be five and one-half percent (5.5%) above the regular authorized pay or rate of pay.

(B) Payment will be controlled through personnel actions by the Director of the Arkansas Department of Emergency Management.

(b) The rate of pay for individuals who work less than a full pay period of eighty (80) hours or transfer to other work areas not defined in this section, or both, will not receive any enhanced rate of pay for that or subsequent pay periods.

(c) A monthly report shall be made to the Legislative Council describing all payments made to employees under the provisions of this section.

History. Acts 1995, No. 1028, § 14; 1999, No. 646, §§ 37, 38.

A.C.R.C. Notes. References to "this chapter" in §§ 12-75-101 — 12-75-130 may not apply to this section which was enacted subsequently.

Amendments. The 1999 amendment substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (a)(1) and (a)(3)(B).

SUBCHAPTER 2 — EMPLOYEES

SECTION.

12-75-201. Position transfer.

A.C.R.C. Notes. References to "this chapter" in §§ 12-75-101 — 12-75-130 may not apply to this subchapter which was enacted subsequently.

Effective Dates. Acts 1997, No. 1069, § 26: Apr. 3, 1997 and July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the

event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and Sections 1 through 19 of this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997. It is hereby found and determined by the General Assembly that the city of Arkadelphia and its surrounding area was one of the most tragically devastated ar-

eas in the recent tornado disaster; that the extent of destruction in that area requires the establishment of an entity to coordinate the efforts of rebuilding and revitalizing the Arkadelphia area; and that this act creates the Arkansas 2025 Commission to accomplish that purpose. Therefore, an emergency is declared to exist and Section 20 of this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1427, § 23: July 1, 1999.

Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

12-75-201. Position transfer.

Upon approval of the Chief Fiscal Officer of the State, the Arkansas Department of Emergency Management is authorized to transfer positions between appropriations as may be required:

(1) Should a disaster occur which results in a presidential disaster proclamation; or

(2) When an employee occupies one (1) position which is to be paid from two (2) or more appropriations during a single fiscal year.

History. Acts 1997, No. 1069, § 19; 1999, No. 1427, § 16.

A.C.R.C. Notes. References to "this chapter" in §§ 12-75-101 — 12-75-130 may not apply to this section which was enacted subsequently.

Acts 2003, No. 636, § 13, provided: "POSITION TRANSFER. Upon approval of the Chief Fiscal Officer, the Arkansas Department of Emergency Management is

hereby authorized to transfer positions between appropriations as may be required should a disaster occur which results in a Presidential Disaster Proclamation and/or when an employee occupies one position which is to be paid from two or more appropriations during a single fiscal year. The provisions of this section shall be in effect only from July 1, 2003 through June 30, 2005."

CHAPTER 76

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

SECTION.

12-76-101. Title.

SECTION.

12-76-102. Enactment of compact into law.

Cross References. Emergency services program, § 12-75-101 et seq.

Effective Dates. Acts 1989, No. 247, § 10: Feb. 24, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that this Act is designed to charge the Office of Emergency Services with full responsibil-

ity of administering the Earthquake Preparedness Program and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

12-76-101. Title.

This chapter may be cited as the "Interstate Civil Defense and Disaster Compact".

History. Acts 1973, No. 232, § 1; A.S.A. 1947, § 11-2001.

12-76-102. Enactment of compact into law.

The Interstate Civil Defense and Disaster Compact is enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT
ARTICLE I

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from enemy attack, natural cause, or other cause. The prompt, full, and effective utilization of the resources of the respective states, including such resources as may be available from the United States Government or any other source, are essential to the safety, care, and welfare of the people thereof in the event of enemy action or other emergency, and any other resources including personnel, equipment, or supplies shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the states that are parties hereto. The Directors of Civil Defense of all party states shall constitute a committee to formulate plans to take all necessary steps for the implementation of this contract.

ARTICLE II

It shall be the duty of each party state to formulate civil defense plans and programs for application within such state. There shall be frequent consultation between the representatives of the states and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs, the party states shall, so far as possible, provide and follow uniform standards, practices, and rules and regulations including:

- (a) Insignia and any other distinctive articles to designate and distinguish the different civil defense services;
- (b) Mobilization of civil defense forces and other tests and exercises;
- (c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;
- (d) Shutting off water mains, gas mains, electric power connections, and the suspension of all other utility services;
- (e) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party state;
- (f) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks or disasters;
- (g) The safety of public meetings or gatherings;
- (h) Standardized data bank of response and recovery resources; and
- (i) Disaster forecasts and reports.

ARTICLE III

Any party state requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges, and immunities as if they were performing their duties in the state in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the civil defense authorities of the state receiving assistance.

ARTICLE IV

Whenever any person holds a license, certificate, or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical, or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster, and such state shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is rendered.

ARTICLE V

No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or

omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

ARTICLE VI

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may complement, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment and supplies.

ARTICLE VII

Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

ARTICLE VIII

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests, including amounts paid under Article VII; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further that any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States Government may relieve the party state receiving aid from any liability and reimburse the party state supplying civil defense forces for compensation paid to and the transportation, subsistence, and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment, or facilities so utilized or consumed. The State of Arkansas will only honor reimbursement claims from other states rendering aid to Arkansas to the same level of reimbursement and for the same items

or areas of cost as each of those states' interstate compact laws provide to requesting states.

ARTICLE IX

Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster, the party state of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

ARTICLE X

This compact shall be available to any state, territory, or possession of the United States, and the District of Columbia. The term "state" may also include any neighboring foreign country or province or state thereof.

ARTICLE XI

The committee established pursuant to Article I of this compact may request the Federal Emergency Management Agency, or its successor, of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

ARTICLE XII

This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by Congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and the

Federal Emergency Management Agency, or its successor, and other appropriate agencies of the United States Government.

ARTICLE XIII

This compact shall continue in force and remain binding on each party state until the legislature or the Governor of such party state takes action to withdraw therefrom. Such action shall not be effective until thirty (30) days after notice thereof has been sent by the Governor of the party state desiring to withdraw to the Governors of all other party states.

ARTICLE XIV

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

ARTICLE XV

It has been found and declared by the General Assembly of Arkansas that there is an immediate necessity to hasten the completion of plans to prepare this state and people thereof against the possibilities of disaster resulting from enemy attack, sabotage, or other hostile action or from natural disasters, such as fire, flood, earthquake, or other natural causes, and that enactment of this bill will hasten completion of such plans. Therefore, an emergency is declared to exist, this chapter being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force and operation from the date of its approval.

ARTICLE XVI

DEFINITIONS:

(1) "Civil defense" shall be used here to be synonymous with emergency services, emergency management, or future terms denoting an emergency or disaster response organization or capability with the chief goal of protecting life, limb, and/or property of citizens that could be lost because of a disaster agent.

(2) "Civil defense forces" means all state, county, and local government agencies, departments, offices, and personnel, qualified emergency service workers as defined by § 12-75-103, and all private volunteer citizens called upon by state officials to provide emergency service in response to a disaster agent or to one that is pending.

(3) "State employees" include all persons paid wages or salaries by the State of Arkansas, all qualified emergency service workers as

defined by § 12-75-103, and all private volunteer Arkansas citizens called upon by state officials to provide emergency services.

History. Acts 1973, No. 232, § 2; Civil Defense and Disaster Compact was approved by the Arkansas General Assembly on March 7, 1973.

A.S.A. 1947, § 11-2002; Acts 1989, No. 247, §§ 3-6.

Publisher's Notes. The Interstate

CHAPTER 77

ARKANSAS EARTHQUAKE PREPAREDNESS ACT OF 1989

SECTION.

12-77-101. Title.

12-77-102. Purpose.

12-77-103. Arkansas earthquake program.

SECTION.

12-77-104. Compliance with the Arkansas Emergency Services Act.

Effective Dates. Acts 1989, No. 247, § 10: Feb. 24, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that this Act is designed to charge the Office of Emergency Services with full responsibility of administering the Earthquake Preparedness Program and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this

Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Cross References. Arkansas Emergency Services Act of 1973, § 12-77-101 et seq.

Earthquake activity, § 15-21-601 et seq.

12-77-101. Title.

This chapter may be cited as the Arkansas Earthquake Preparedness Act of 1989.

History. Acts 1989, No. 247, § 1.

12-77-102. Purpose.

(a)(1) It is found and determined by the General Assembly that:

(A) There exists a history of violent seismic activity within the central United States seismic zone which includes the New Madrid fault, the southern branch of the New Madrid fault being at or about Marked Tree, Arkansas, and extends northeast into Missouri and Tennessee;

(B) That a recurrence of the 1811-1812 earthquake swarm, whereby fifty-five (55) of the approximate two thousand ten (2,010) earthquakes occurring during a three-month period that had surface wave magnitudes of 6.0 — 8.7 on the Richter scale, estimated to have

affected in excess of eight hundred thousand (800,000) square miles, is again possible;

(C) That it is essential for the protection of life and limb of the citizens of this state, and particularly those approximately six hundred fifty thousand (650,000) citizens on and in close proximity of the fault, that a program be initiated to provide for continuous mitigation, preparedness, response, and recovery capability for violent seismic activity.

(2) The General Assembly further determines that it is appropriate to amend the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., to be in concert with the Central United States Earthquake Consortium efforts to develop an Interstate Earthquake Emergency Compact.

(b) Therefore, it is the purpose and intent of this chapter to initiate a program to deal with this matter and to charge the Arkansas Department of Emergency Management, Earthquake Preparedness Program, with the responsibility of carrying out the program requiring the full cooperation of all other state and local government agencies, departments, offices, and personnel and requiring that all earthquake mitigation, preparedness, response, and recovery-related functions of Arkansas be coordinated to the maximum extent with comparable functions of the federal government, including its various departments and agencies, with other states and localities, and with private agencies of every type, to the end that the most effective earthquake mitigation, preparation, response, and recovery capabilities may be accomplished.

History. Acts 1989, No. 247, § 2; 1999, substituted "Arkansas Department of No. 646, § 39. Emergency Management" for "State Office

Amendments. The 1999 amendment of Emergency Services" in (b).

12-77-103. Arkansas earthquake program.

(a)(1) The Arkansas Department of Emergency Management, Earthquake Preparedness Program, shall coordinate an earthquake program designed to protect the lives and property of persons of this state, to the fullest possible extent, from the direct effects of seismic activity affecting Arkansas as well as from secondary effects created by such occurrence.

(2) The program shall coordinate all activities involved in mitigation and preparedness regarding seismic events. Toward that end, the earthquake program shall include but not be limited to:

(A) Continued assessment from proper scientific authorities of the seismic risk to the state;

(B) Training and education of state and local government officials, employees, and citizens of Arkansas regarding preparation and protective measures that can be taken before, during, and after an earthquake;

(C) Planning coordination, guidance, and assistance to all state and local government officials in preparation for, response to, and recovery from earthquakes;

(D) Coordination of earthquake program activities with comparable agencies of the federal government and other states; and

(E) The dissemination of information to the public pertaining to earthquake hazards, protective measures, seismic resistance in building construction, and appropriate actions to be taken before, during, and after an earthquake, and other matters the Arkansas Department of Emergency Management shall determine to be necessary or appropriate to educate, inform, and equip citizens in this state to deal with any earthquake.

(b) In order to carry out the responsibilities provided for in this section, the program is authorized to employ such personnel as deemed necessary to the extent that funds are appropriated therefor by the General Assembly.

History. Acts 1989, No. 247, § 7; 1999, No. 646, §§ 40-42.

Amendments. The 1999 amendment substituted "Arkansas Department of

Emergency Management" for "State Office of Emergency Services" in (a)(1), (a)(2)(E) and (b).

12-77-104. Compliance with the Arkansas Emergency Services Act.

(a) It is the intention of the General Assembly that this chapter shall be in compliance with the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., to the extent that if this chapter or any provision of it or application thereof to any person or circumstance is held in opposition to or out of compliance with the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., then such provisions of this chapter are invalid.

(b) However, the invalidity of a provision or provisions of this chapter shall not affect other provisions or application of this chapter which can be given effect without the invalid provision, provisions, or their application.

History. Acts 1989, No. 247, § 8.

CHAPTER 78

EMERGENCY COMMUNICATIONS ACT OF 1991

SECTION.

12-78-101. Short title.
12-78-102. Policy and purpose.
12-78-103. Definitions.

SECTION.

12-78-104. Management of funds.
12-78-105. Implementation — Equipment purchases.

12-78-101. Short title.

This chapter may be cited as the Emergency Communications Act of 1991.

History. Acts 1991, No. 554, § 1.

12-78-102. Policy and purpose.

Because of the potential for a natural, technological, or national emergency-related disaster of catastrophic size and devastating impact requiring rapid and effective communications and warning to coordinate city, county, state, federal, and private sector emergency response personnel, equipment, and resources for the protection of lives, property, and institutions of the people of the state, and because technologically advanced state-of-the-art communications and data exchange equipment must be systematically procured, installed, and operated to ensure compatibility and effective use, it is found and declared to be necessary to provide:

(1) For the periodic review of the statewide emergency communications system to ensure maximum operational effectiveness and recommend such improvements as may be required to keep pace with increasing emergency needs and advancing technology;

(2) A system to review and recommend the procurement of equipment and systems to local offices of emergency services and to state, federal, and private sector emergency communications operators to ensure compatibility of equipment; and

(3) A source of funding and administer funding made available from federal, state, and private sources to ensure prioritized, equitable, economical, and fair distribution of funding and to ensure all required fiscal controls and reviews are in compliance with appropriate state and federal guidelines.

History. Acts 1991, No. 554, § 2.

12-78-103. Definitions.

As used in this chapter:

(1) “Arkansas Department of Emergency Management” or “local office of emergency management” shall refer to:

(A) The state agency; and

(B) Those jurisdictions authorized under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., for the performance of emergency and disaster mitigation, planning, response, or recovery at the state and local level, respectively; and

(2) “Emergency warning and communications systems” shall refer to the emergency communications nets operated under the control, management, supervision, and license of the Arkansas Department of Emergency Management which may include local offices of emergency services, designated components of state or federal agencies, and duly accredited private sector organizations assigned to an emergency role under the provisions of the State of Arkansas Emergency Operations Plan.

History. Acts 1991, No. 554, § 3.

12-78-104. Management of funds.

The Arkansas Department of Emergency Management shall ensure that a system to manage appropriated funds shall provide that:

(1) Upon achieving operational status, the warning and communications shall be operated in accordance with the rules, regulations, and laws governing emergency warning and communications systems as promulgated by the Federal Communications Commission, Federal Emergency Management Agency, and the department;

(2) Equipment shall be maintained in a continuing operational status by local offices of emergency management or the chief executive officer of the jurisdiction and by the responsible supervisor or manager of other recipients and the offices, jurisdictions, or agencies who shall provide supervision and training to those individuals designated to operate the equipment; and

(3) Failure to maintain or operate the equipment in accordance with the minimum standards set forth in guidance by the department shall require repayment to the State Treasury that portion of the initial grant of state funds based upon a depreciation rate of fourteen percent (14%) per annum effective from the date of installation and acceptance.

History. Acts 1991, No. 554, § 5; 1999, No. 646, § 43.

Amendments. The 1999 amendment substituted "Arkansas Department of

Emergency Management" for "State Office of Emergency Services" throughout this section.

12-78-105. Implementation — Equipment purchases.

(a)(1) From funds appropriated therefor, the Arkansas Department of Emergency Management shall provide to eligible local offices of emergency management and key state agencies assigned an emergency role under the State of Arkansas Emergency Operations Plan matching grants not to exceed fifty percent (50%) of the cost of the acquisition of the emergency warning and communications equipment.

(2) The grant shall be awarded only for the acquisition of equipment for which the Director of the Arkansas Department of Emergency Management has granted specific approval.

(b) The equipment shall be purchased only in accordance with the current approved purchasing procedures of the county or city having authority over the local office of emergency management or the approved purchasing procedures for the governmental agencies or private sector agencies.

History. Acts 1991, No. 554, § 4; 1999, No. 646, § 44.

Amendments. The 1999 amendment substituted "Arkansas Department of

Emergency Management" for "State Office of Emergency Services" in (a)(1) and (a)(2); and made stylistic changes.

CHAPTER 79

ARKANSAS HAZARDOUS AND TOXIC MATERIALS
EMERGENCY NOTIFICATION ACT

SECTION.

- 12-79-101. Title.
- 12-79-102. Creation.
- 12-79-103. Definitions.
- 12-79-104. HAZMAT incident or accident

SECTION.

- reporting system.
- 12-79-105. Accidents or incidents.
- 12-79-106. Penalties.

Effective Dates. Acts 1991, No. 917, § 10; Mar. 29, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that hazardous and toxic materials are being transported along our public streets and highways in Arkansas; that accidents and incidents involving the release of these hazardous and toxic materials periodically occur and threatens the public health and safety of

the citizens of Arkansas; and that there is no current system of centralized reporting and response for these HAZMAT emergencies. Therefore, in order to create a centralized reporting to relieve the threat to the public health and safety, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

12-79-101. Title.

This chapter may be known and cited as the "Arkansas Hazardous and Toxic Materials Emergency Notification Act".

History. Acts 1991, No. 917, § 1.

12-79-102. Creation.

Because of the existing and increasing possibility of a major disaster or emergency from the release of hazardous and toxic substances into the environment while in transport, during manufacturing, and in storage, and because of the immediate need to notify state and local emergency response and recovery forces and other governmental entities mandated to perform certain actions related to a release of hazardous or toxic substances into the environment, it is found and declared to be necessary to:

(1) Create within the Arkansas Department of Emergency Management a system to notify local, state, and federal emergency response and recovery forces and those other governmental and private sector entities with a mandated responsibility for emergency services; and

(2) Require any business, manufacturer, refiner, retailer, wholesaler, transporter in the private sector, or governmental entity at the local, state, or federal level to report as soon as possible any known incident involving the release of hazardous and toxic materials into the environment which requires, or may require, emergency response or recovery actions by public safety forces of local or state governmental

entities, including volunteer emergency services such as, but not limited to, firefighters, law enforcement, emergency medical services, and other first responders.

History. Acts 1991, No. 917, § 2; 1999, No. 646, § 45.

Amendments. The 1999 amendment substituted "Arkansas Department of

Emergency Management" for "State Office of Emergency Services" in the first sentence of (1).

12-79-103. Definitions.

As used in this chapter:

(1) "Director" means the Director of the Arkansas Department of Emergency Management established under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq.;

(2) "Fixed facility" means any refinery, factory, storage site, assembly plant, warehouse, wholesaler, retailer, or other facility which receives, stores, processes, or ships hazardous and toxic materials;

(3) "Hazardous and toxic materials" means:

(A) Those substances, except natural gas, manufactured, refined, or found in their natural state which, when released into the environment, by any means, have an immediate or potential threat to human, animal, or plant life and meet other criteria established under federal regulations, guidelines, or laws defining hazardous and toxic substances in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, and which is designated as "hazardous material" in regulations prescribed by the United States Secretary of Transportation under Title 49 of the Code of Federal Regulations; and

(B) Any other substance or pollutant designated by regulations of the director promulgated under this chapter;

(4) "HAZMAT" means the abbreviation of "hazardous and toxic materials";

(5) "Incident" or "accident" means the spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of hazardous and toxic materials into the environment;

(6) "System for notification" means those communications facilities currently existing, or that may be later established, for direction, warning, and control of emergency response and recovery forces at the federal, state, and local levels;

(7) "Transport" means the movement of any hazardous and toxic material regardless of the mode of transportation from one place to another place and any loading, unloading, and storage incidental thereto; and

(8) "Transporter" means any person, firm, association, partnership, corporation, or other legal entity who transports or ships in a motor vehicle, rail freight car, freight container, cargo tank, rail tank car, pipeline other than a natural gas pipeline, aircraft, vessel, or other means of transportation any hazardous and toxic materials as a common carrier, contract carrier, or carrier for private use.

History. Acts 1991, No. 917, § 3; 1999, No. 646, § 46.

Amendments. The 1999 amendment substituted “Arkansas Department of

Emergency Management” for “State Office of Emergency Services” in (1); and made a stylistic change.

12-79-104. HAZMAT incident or accident reporting system.

(a) The Director of the Arkansas Department of Emergency Management shall:

(1) In cooperation with the State Emergency Response Commission, establish a HAZMAT incident or accident reporting system within the State Emergency Operations Center for disseminating information to the appropriate agencies and emergency first responders for any release of a hazardous and toxic material that might present either an immediate or potential threat to the safety, health, and welfare of the public; and

(2) Operate and maintain on a continuing basis emergency direction, control, and warning systems sufficient to meet the minimum requirements of this chapter.

(b) The HAZMAT incident or accident reporting systems shall meet the minimum federal requirements specified in federal regulations and guidelines for hazardous and toxic materials emergency reporting and shall operate within the provisions established under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., and the State of Arkansas Emergency Operations Plan to provide the most expeditious and practical means to notify state, local, and private sector entities assigned an emergency response or recovery role under this chapter.

(c) Each agency, office, bureau, or commission of the State of Arkansas or its political subdivisions having a role or responsibility for HAZMAT planning, response, recovery, or mitigation, or providing public safety services or having regulatory or oversight authority shall establish guidelines and procedures to ensure prompt and accurate reporting of any accident, incident, or known or suspected release of toxic or hazardous materials within the State of Arkansas in violation of any state or federal environmental or health protective statutes, regulations, or guidelines.

History. Acts 1991, No. 917, § 4; 1999, No. 646, § 47.

Amendments. The 1999 amendment substituted “Arkansas Department of

Emergency Management” for “State Office of Emergency Services” in the introductory paragraph of (a).

12-79-105. Accidents or incidents.

Any fixed facility operator or any transporter involved in an accident or incident during refining, manufacturing, processing, storage, loading, unloading, transporting, or a related activity which involves the release of hazardous and toxic materials into the environment or any public safety emergency first responders from the local, state, or federal level, who have confirmed that the incident or accident has not been previously reported to the State Emergency Operations Center shall

report immediately, by telephone, radio, or the most expeditious means available to the center any incident or accident which:

- (1) Involves a fatality due to fire, explosion, or exposure to any hazardous and toxic materials;
- (2) Results in the hospitalization of any person due to fire, explosion, or exposure to any hazardous and toxic materials;
- (3) Results in a continuing danger to life, health, or property at the place of the accident or incident; and
- (4) Results in the release of hazardous and toxic materials, in any amount, by any transporter onto public or private property, including roads, highways, or thoroughfares maintained by local, state, and federal government entities and upon regulated commerce rights-of-way.

History. Acts 1991, No. 917, § 5.

12-79-106. Penalties.

Any person who pleads guilty or nolo contendere to or is found guilty of violating any provisions of this chapter or any regulation promulgated hereunder shall be guilty of a misdemeanor and be fined not more than five hundred dollars (\$500) per day of violation or imprisoned for not more than one (1) year, or both.

History. Acts 1991, No. 917, § 6.

CHAPTER 80
EARTHQUAKE RESISTANT DESIGN FOR PUBLIC
STRUCTURES

SECTION.	SECTION.
12-80-101. Purpose.	12-80-105. Exemptions.
12-80-102. Definitions.	12-80-106. Violations and penalties.
12-80-103. Seismic zones established.	12-80-107. Exemptions for roads and bridges.
12-80-104. Design requirements.	

Cross References. Earthquake activity, § 15-21-601 et seq.

Earthquake Preparedness Act, § 12-77-101 et seq.

12-80-101. Purpose.

It is the purpose of this chapter to protect the public by requiring that all public structures be designed and constructed to resist destructive forces when an earthquake occurs in the New Madrid Seismic Zone.

History. Acts 1991, No. 1100, § 1.

12-80-102. Definitions.

As used in this chapter:

(1) “Add to” means adding to the original existing buildings or structures more than four thousand square feet (4000 sq.ft.) in gross floor area and all areas of increased building height;

(2) “Alter”, “retrofit”, and “remodel” mean any alteration or repair of a building which when completed will increase the market value of the building by one hundred percent (100%) or more;

(3) “Owner” means any agency of the state, county, city, township, town, village, or private entity, partnership, business, or corporation;

(4)(A) “Public structure” means any building intended, or adaptable, for public employment, assembly, or any other use if it will be open to the public.

(B) Also included in this definition are certain building types as defined under the term “public works” projects;

(5)(A) “Public works” means works, whether of construction or adaptation, undertaken and carried out by the national, state, county, school district, or municipal authorities, and designed to serve some purpose of public necessity, use, or convenience such as public buildings, roads, aqueducts, parks, and all other fixed works constructed for public use.

(B) The term relates to the construction of public improvements and not to their maintenance or operation;

(6) “Seal” means the Arkansas seal issued to signify certification of registration to practice architecture or engineering;

(7) “Seismic” means pertaining to an earthquake or earth tremor, i.e., vibrations; and

(8) “Structural elements” means all structural load-carrying members of a building or structure required to transmit loads, i.e., forces within the building or between the building and the ground.

History. Acts 1991, No. 1100, § 2; inserted “the original” in (1); and made 1999, No. 1485, § 1. stylistic changes.

Amendments. The 1999 amendment

12-80-103. Seismic zones established.

(a)(1) Areas within the boundaries of this state shall be divided into zones of anticipated damage that will occur in various locations with respect to the New Madrid Seismic Zone.

(2) This will be based on Av and Aa values.

(b)(1)(A) Zone 3, the area of greatest anticipated seismic damage, shall include the following counties: Clay, Greene, Craighead, Mississippi, Poinsett, Cross, Crittenden, St. Francis, Randolph, Lawrence, Jackson, Woodruff, and Lee.

(B) This area of the state shall be the area where Av and Aa are to be between 0.2 and 0.3 in a similar manner used in the current Standard Building Code.

(2)(A) Zone 2, the area of moderate anticipated seismic damage, shall include the following counties: Sharp, Independence, White, Lonoke, Prairie, Arkansas, Monroe, Phillips, Fulton, Izaard, Stone, and Cleburne.

(B) This area of the state shall be the area where A_v and A_a are to be between 0.1 and 0.2 in a similar manner used in the current Standard Building Code.

(3)(A) Zone 1, the area of low anticipated seismic damage, shall include all remaining counties within the boundaries of this state.

(B) This area of the state shall be the area where A_v and A_a are less than 0.1 in a similar manner used in the current Standard Building Code.

History. Acts 1991, No. 1100, § 3; 1999, No. 1485, § 2.

Amendments. The 1999 amendment rewrote this section.

12-80-104. Design requirements.

(a)(1) Neither the state, any county, city, township, village, or private entity shall construct, add to, alter, retrofit, or remodel any public structure unless the structural elements are designed to resist the anticipated forces of the designated seismic zone in which the structure is located.

(2) Design loads and seismic design requirements shall be, as a minimum, those listed in the Chapter of Structure Loads and referenced chapters from the Arkansas Fire Prevention Code.

(b)(1) All construction plans for public buildings and structures shall comply with the Arkansas Architectural Act, § 17-15-101 et seq.

(2) The design of structural elements of public buildings and structures shall be performed by a professional engineer registered in the State of Arkansas who is competent in seismic structural design according to current standards of technical competence.

(3) The structural plans of each public building or structure shall bear the engineer's Arkansas seal and signature and a statement of reference to what seismic zone the structure is designed to satisfy.

(4) Educational and institutional structures in Seismic Hazard Exposure Group III shall have nonstructural interior components, such as bookshelves, light fixtures, shelving, hot water tanks, oxygen tanks, etc., to meet earthquake resistant guidelines.

History. Acts 1991, No. 1100, § 4; 1999, No. 1485, § 3.

rewrote (a)(2); added (b)(4); and made stylistic changes.

Amendments. The 1999 amendment

12-80-105. Exemptions.

(a) Certain building types shall not be included in the requirements of this chapter, such as:

(1) Single family residential;

- (2) Duplexes;
- (3) Triplexes;
- (4) Fourplexes;
- (5) Agricultural structures; and
- (6) The following wood frame, metal, or both, construction business occupancies of four thousand square feet (4000 sq. ft.) or less:
 - (A) Business occupancy of less than forty (40);
 - (B) Mercantile occupancy with a load less than one hundred (100); and
 - (C) Storage.

(b)(1) The park and recreational facilities of the State of Arkansas, any of its agencies or departments, or any city, town, or county government or any school district shall not be included in the requirements of this chapter.

(2) As used in this subsection, "park and recreational facilities" shall mean any facilities which are generally open structures and have three (3) or fewer sides and are used for athletics, recreation, relaxation, entertainment, cultural development, and other recreational activities, including, without limitation, park pavilions, amphitheaters, covered stage areas, camping centers, tennis courts, golf course shelters, athletic fields, baseball fields and dugouts, and various other similar park and recreational facilities.

History. Acts 1991, No. 1100, § 5; 1995, No. 520, § 1; 1997, No. 1228, § 1; 1999, No. 1485, § 4.

Amendments. The 1999 amendment rewrote (a); deleted former (c); and made stylistic changes.

12-80-106. Violations and penalties.

(a) Any owner knowingly constructing a public building within this state without complying with the provisions of this chapter shall be guilty of a Class A misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than one thousand dollars (\$1,000).

(b) Each day of such unlawful construction practice shall constitute a distinct and separate offense.

History. Acts 1991, No. 1100, § 6.

A.C.R.C. Notes. As enacted by Acts 1991, No. 1100, § 6, subsection (a) be-

tween "state" and "without" read: "after September 1, 1991,".

12-80-107. Exemptions for roads and bridges.

None of the highway, road, street, or bridge facilities in this state shall be included in the requirements of this chapter.

History. Acts 1995, No. 569, § 1.

CHAPTER 81

COMMISSION TO ASSIST PERSONS WHO HAVE SUFFERED CATASTROPHIC FINANCIAL LOSS

SECTION.

12-81-101. [Repealed.]

12-81-101. [Repealed.]

Publisher's Notes. This chapter, concerning members of a newly created commission, was repealed by Acts 1999, No.

1133, § 2. The chapter was derived from Acts 1991, No. 269, § 1.

CHAPTER 82

ARKANSAS SERC/LEPC ACT

SECTION.

12-82-101. Title.

12-82-102. Purpose.

12-82-103. Definitions.

SECTION.

12-82-104. State Emergency Response Commission.

Effective Dates. Acts 1993, No. 567, § 8: Mar. 17, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the danger of personal injury and subsequent liability that might be incurred requires rapid implementation of the provisions of this act."

Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

12-82-101. Title.

This chapter may be known and cited as the Arkansas SERC/LEPC Act.

History. Acts 1993, No. 567, § 1.

12-82-102. Purpose.

Because of existing and increasing accidents, incidents, and events involving hazardous and toxic materials in transport, manufacturing, storage, refining, and usage and because of federal mandates imposed upon state and local governments under the provisions of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq., it is found and declared to be necessary to:

(1) Create a State Hazardous Materials Emergency Response Commission which shall be empowered to take the necessary actions and activities required under state and federal laws, rules, and regulations

related to emergency planning, training, response, and recovery activities for hazardous and toxic materials;

(2) Administer the provisions of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq.; and

(3) Authorize the commission to investigate, review, implement, and manage such standards and requirements as may be needed for the certification of public emergency responders and other related emergency personnel as may be subject to emergency response and recovery actions related to hazardous and toxic materials incidents, accidents, or events.

History. Acts 1993, No. 567, § 2.

12-82-103. Definitions.

As used in this chapter:

(1) "Certification" means a formal document acknowledging that an individual has reached the minimum level of formal training and education, required under federal regulations and guidance provided through the State Hazardous Materials Emergency Response Commission, to perform his or her normally assigned duties for hazardous and toxic materials emergency response;

(2) "Emergency responder" means a person or persons enrolled in organizations which are entities of state or local government, or acting in behalf of state or local government, including, but not limited to, professional or volunteer law enforcement, firefighting, emergency medical, emergency services, or other public emergency response personnel who respond to the scene of a disaster with an assigned role in public safety and emergency services;

(3) "Emergency response and recovery" means those actions required at the scene of a disaster or emergency, as described in the Arkansas Emergency Services Act of 1973, §§ 12-75-101 et seq., for public safety, health, and welfare;

(4) "Hazardous and toxic materials" or "HAZMAT" means:

(A) Extremely hazardous substances under 42 U.S.C. § 11002, hazardous chemicals under 42 U.S.C. §§ 11021 and 11022, and toxic chemicals under 42 U.S.C. § 11023; and

(B) Such other hazardous and toxic substances as may later be designated by federal regulatory agencies; and

(5) "State Emergency Response Commission" or "SERC" refers to the State Hazardous Materials Emergency Response Commission as specified in this chapter.

History. Acts 1993, No. 567, § 3.

U.S. Code. 42 U.S.C. §§ 11002, 11021, 11022 and 11023 are sections of the

Superfund Amendments and Reauthorization Act of 1986.

12-82-104. State Emergency Response Commission.

(a)(1) The State Emergency Response Commission shall be composed of:

(A) The directors of the Department of Health, the Arkansas Department of Environmental Quality, the Department of Arkansas State Police, the Arkansas Department of Emergency Management, the Department of Labor, the Arkansas Fire Training Academy, the Arkansas State Highway and Transportation Department, the Adjutant General, or their designated representatives;

(B) One (1) individual representing the local emergency planning committees;

(C) Two (2) individuals from regulated entities;

(D) One (1) individual from an unregulated entity with knowledge of the Emergency Planning and Community Right-to-Know Act of 1986; and

(E) One (1) private citizen to represent the public at large.

(2)(A) The chair of the commission shall be elected by the members of the commission and shall serve for a two-year period.

(B)(i) Each commission member designated in subdivisions (a)(1)(B)-(E) of this section shall serve for a term of four (4) years and shall serve at the pleasure of the Governor.

(ii) The term of any member designated in subdivisions (a)(1)(B)-(E) of this section may be extended for a period of one (1) year to prevent the terms of all members from expiring in the same year.

(b) The commission shall establish local emergency planning committees within the authorized and established local emergency services jurisdiction of the state as prescribed in §§ 12-75-101 — 12-75-129.

(c) Local emergency planning committee membership, functions, and duties shall be in accordance with the federal guidelines prescribed in the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq.

(d) The commission may promulgate such rules, regulations, and guidelines as deemed necessary or desirable:

(1) For the training and certification of public emergency response and recovery personnel, as defined in this chapter;

(2) To ensure compliance with the appropriate federal guidelines and law governing public emergency response and recovery personnel; and

(3) To adequately administer the requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq., in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) Any person who is denied training certification under this chapter may appeal such decision to the commission by notifying the commission in writing within fifteen (15) days after the denial of certification.

History. Acts 1993, No. 567, § 4; 1995, No. 626, § 1; 1999, No. 646, § 48; 1999, No. 1164, § 121.

Amendments. The 1999 amendment, in (a)(1)(A), substituted “Arkansas De-

partment of Environmental Quality” for “Department of Pollution Control and Ecology” and substituted “Arkansas Department of Emergency Management” for “State Office of Emergency Services”.

CHAPTER 83

EMERGENCY VOLUNTEER RESERVE ACT OF 1985

SECTION.

12-83-101. Short title.

12-83-102. Policy and purpose.

12-83-103. Definitions.

SECTION.

12-83-104. Recruitment — Service — Deployment — Discharge.

12-83-105. Reimbursement.

Effective Dates. Identical Acts 1995, Nos. 115 and 169, § 9: Feb. 1, 1995 and Feb. 6, 1995, respectively. Emergency clause provided: “It is hereby found and determined by the General Assembly that threat of disaster emergency and the need for immediate response and recovery to protect the lives, health and welfare of the

people of Arkansas require these functions to be authorized immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

12-83-101. Short title.

This chapter may be cited as the Emergency Volunteer Reserve Act of 1995.

History. Acts 1995, No. 115, § 1; 1995, No. 169, § 1.

Cross References. Arkansas Depart-

ment of Emergency Management, §§ 12-75-109 — 12-75-111.

12-83-102. Policy and purpose.

Because the potential for a natural, technological, or national emergency-related disaster of catastrophic proportions and devastating impact requires extensive use of highly trained and skilled personnel experienced in disaster response and recovery actions, and whereas such needs and requirements may exceed the normal forces available to the State of Arkansas to prevent death and injury to its citizens and extensive loss of property, it is found and declared necessary:

(1) To establish within the Arkansas Department of Emergency Management an Emergency Volunteer Reserve Cadre of persons trained and experienced in certain functions related to disaster response and recovery operations;

(2) To provide authority to the Director of the Arkansas Department of Emergency Management to call the emergency volunteer reserve personnel into active service upon declaration of a state of disaster emergency by the Governor or the President of the United States or

when, in the opinion of the director, a pending natural, technological, or national emergency may require the immediate services of the personnel;

(3) To provide the authority to the director to reimburse members of the cadre, when called to active duty, for out-of-pocket expenses for lodging, food, and travel at the current rate and under the provisions for reimbursement applicable to state employees of like grade and responsibility during the period of active service to the state; and

(4) To provide to the cadre the same privileges and immunities as are applicable to state employees when performing their duties on behalf of the state.

History. Acts 1995, No. 115, § 2; 1995, No. 169, § 2; 1999, No. 646, § 49.

substituted “Arkansas Department of Emergency Management” for “State Office of Emergency Services” in (1), (2), and (3).

Amendments. The 1999 amendment

12-83-103. Definitions.

As used in this chapter:

(1) “Director” means the Director of the Arkansas Department of Emergency Management, including any acting director, when such position is authorized by the Governor, and those persons officially authorized to act for the director in his or her absence or incapacitation; and

(2) “Emergency Volunteer Reserve Cadre” means persons recruited as volunteers to serve in time of emergency and to supplement the regular employees of the Arkansas Department of Emergency Management in disaster response and recovery operations.

History. Acts 1995, No. 115, § 3; 1995, No. 169, § 3; 1999, No. 646, § 50.

substituted “Arkansas Department of Emergency Management” for “State Office of Emergency Services” in (1) and (2).

Amendments. The 1999 amendment

12-83-104. Recruitment — Service — Deployment — Discharge.

(a)(1) The Arkansas Department of Emergency Management shall establish a system to recruit personnel with special skills or experience related to emergency response and recovery operations and provide initial familiarization training and periodic proficiency training as necessary for members of the Emergency Volunteer Reserve Cadre to ensure their readiness for immediate deployment for response and recovery activities.

(2) The personnel shall be enrolled as emergency services volunteers in accordance with § 12-75-127, and shall be eligible for immunities and exemptions in accordance with § 12-75-128 and workers’ compensation benefits in accordance with § 12-75-129.

(b) The department shall establish an administrative management system to recruit and maintain qualified personnel and establish a fiscal management system to ensure prompt and reasonable reimbursement of authorized expenses.

(c) Persons recruited for the cadre may provide, but are not limited to providing, services in disaster application centers, disaster field offices, disaster survey teams, and fixed or mobile emergency operating centers and communications facilities, and may utilize other specific skills for which they may qualify or be trained to assume.

(d) Members are subject to deployment within the State of Arkansas and may, upon invocation of mutual aid agreements with other states, accompany state employees at host state or federal expense on out-of-state services.

(e) When called into active service by the Director of the Arkansas Department of Emergency Management, members of the cadre shall be under the operational and administrative management of the department and such employees of that office who may be designated to supervise their duties.

(f)(1) The director shall have the authority to immediately relieve members of the cadre for actual misconduct, perceived incompetence, or inability to perform their assigned duties.

(2) When relieved by authority other than the director's, members shall have the right of appeal to the director for reinstatement.

History. Acts 1995, No. 115, § 4; 1995, No. 169, § 4; 1999, No. 646, §§ 51-53.

Amendments. The 1999 amendment substituted "Arkansas Department of Emergency Management" for "State Office of Emergency Services" in (a)(1), (b), and (e).

12-83-105. Reimbursement.

(a)(1) Any persons seeking enrollment into the Emergency Volunteer Reserve Cadre shall be notified that no salary, retainer, emoluments, or other monetary reimbursement shall be made for their services, except reimbursement for food, lodging, and travel utilizing a privately owned vehicle when so authorized by the Director of the Arkansas Department of Emergency Management.

(2) Reimbursement shall be made in accordance with current state travel regulations and at the prescribed rates in effect at the time of their services.

(b) However, this shall not disqualify any persons from future employment as emergency hires or full-time employees when hired through the prescribed state employment procedures applicable to the positions they are seeking.

History. Acts 1995, No. 115, § 4; 1995, No. 169, § 4.

CHAPTER 84

ARKANSAS HAZMAT EMERGENCY MANAGEMENT ACT

SECTION.
12-84-101. Short title.
12-84-102. Applicability.

SECTION.
12-84-103. Definitions.
12-84-104. State Office of Hazardous Ma-

SECTION.

terials Emergency Man-
agement.

12-84-105. Powers and duties.

12-84-106. Fees.

SECTION.

12-84-107. Office of Hazardous Materials
Emergency Management
Revolving Fund.

A.C.R.C. Notes. As to the Arkansas Department of Emergency Management superseding the Office of Fire Protection Services and the State Office of Hazardous Materials, see § 12-75-109.

Effective Dates. Acts 1995, No. 634, § 12: Mar. 14, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that due to the potential danger posed to the citizens of the State of Arkansas by the transport and storage of hazardous materials

within the State of Arkansas it has been found and declared by the General Assembly that there is an immediate need to implement the provisions of this act in the interests of public safety and welfare. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

12-84-101. Short title.

This chapter may be known and cited as the "Arkansas HAZMAT Emergency Management Act".

History. Acts 1995, No. 634, § 1.

12-84-102. Applicability.

(a) Nothing in this chapter shall be construed as regulatory authority over acts, laws, rules, regulations, or guidelines of other state or federal agencies related to their designated responsibilities and duties as regulatory authorities over concerns of environmental, health, law enforcement, firefighting, medical, or other areas of responsibility.

(b) The provisions of this chapter are intended to be supplemental to current provisions of Arkansas law, and shall not be construed as repealing or superseding any other laws applicable thereto.

History. Acts 1995, No. 634, §§ 7, 8.

12-84-103. Definitions.

As used in this chapter:

(1) "Emergency management" means those activities related to disaster and emergency planning, mitigation, training, response, and recovery as prescribed in the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq.;

(2) "Hazardous and toxic materials" or "HAZMAT" means those extremely hazardous substances described under 42 U.S.C. § 11023, and such other hazardous or toxic substances as may later be designated by federal regulatory agencies;

(3) “Local emergency planning committee” means those local entities authorized under the provisions of the Arkansas SERC/LEPC Act, § 12-82-101 et seq., and in accordance with the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.;

(4) “State Hazardous Materials Emergency Response Commission” means that entity created under the provisions of the Arkansas SERC/LEPC Act § 12-82-101 et seq., and in accordance with the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.; and

(5) “Superfund Amendments and Reauthorization Act of 1986, Title III” refers to 42 U.S.C. § 11001 et seq. and activities mandated therein.

History. Acts 1995, No. 634, § 2.

12-84-104. State Office of Hazardous Materials Emergency Management.

(a) There is created by this chapter a State Office of Hazardous Materials Emergency Management within and under the administrative and operational control of the Arkansas Department of Emergency Management.

(b) The office shall perform the necessary actions and activities as required under current federal and state laws, rules, and regulations related to emergency planning, training, response, and recovery and, as specified in the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., relating to accidental, deliberate, or act-of-God releases of hazardous or toxic materials which might threaten the public health, safety, welfare, environment, or property of the citizens of Arkansas.

History. Acts 1995, No. 634, § 3; 1999, No. 646, § 54.

substituted “Arkansas Department of Emergency Management” for “State Office of Emergency Services” in this section.

Amendments. The 1999 amendment

12-84-105. Powers and duties.

The State Office of Hazardous Materials Emergency Management shall:

(1) Collect, file, and establish an accessible database and make available information derived from the required reports in 42 U.S.C. §§ 11022 and 11023, and in accordance with the laws, regulations, and guidelines established by the federal government and the State of Arkansas;

(2) Establish, staff, and manage an administrative, fiscal, and operational office to manage all programs and funds required under this chapter and in accordance with the current, accepted practices prescribed by the State of Arkansas and participating federal agencies;

(3) Establish and manage a system to train and certify emergency first responders at the minimum prescribed levels of competency and proficiency as required by federal or state law or regulation;

(4) Assist, as requested or directed by the State Hazardous Materials Emergency Response Commission's local emergency planning committees in meeting the minimum standards for planning, training, or exercising as required under the provisions of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.;

(5) Establish a system to certify local emergency planning committees as being in compliance with required actions and activities, as prescribed by the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq., and other governing directives, laws, or regulations;

(6) Manage federal or state funding programs that provide direct fiscal assistance to certified local emergency planning committees for planning, training, exercising, or administration, to ensure program and fiscal compliance with current federal and state law;

(7) Perform, manage, and oversee such other hazardous or toxic materials emergency management-related functions as may later be implemented, as directed by the Governor, the commission, and other state authority;

(8) Collect and administer fees provided in this chapter and such federal funding as may be specifically earmarked for the program of the office, in accordance with current federal and state laws, regulations, and rules and as recommended by the commission to ensure minimum compliance with federal mandates related to hazardous or toxic materials emergency preparedness;

(9) Provide a point of contact for state agencies, offices, and bureaus to assist with the coordination of specific emergency planning and training and other hazardous or toxic materials emergency management-related activities;

(10) Provide direct emergency management support to local emergency planning committees to assist them with local hazardous or toxic materials emergency management activities and to assist them with reaching and maintaining compliance with federal mandates for these programs; and

(11) Manage, as designated by the Governor or the commission, such other hazardous or toxic materials emergency management programs as may later be mandated by federal or state law, regulation, or guidance.

History. Acts 1995, No. 634, § 4.

12-84-106. Fees.

(a)(1) Each facility required to report to the State Hazardous Materials Emergency Response Commission under the provisions of 42 U.S.C. §§ 11022 and 11023, shall pay the following annual fees to the State Office of Hazardous Materials Emergency Management:

(A) For each facility required to file one (1) or more hazardous chemical inventory reports, under the provisions of 42 U.S.C. § 11022, an annual fee of twenty-five dollars (\$25.00), and an

additional fee of five dollars (\$5.00) for each report filed annually, with a maximum limit of two hundred dollars (\$200) annually for each reporting facility; and

(B) For each facility required to file one (1) or more toxic chemical release forms, under the provisions of 42 U.S.C. § 11023, an annual fee of one hundred fifty dollars (\$150) and an additional fee of twenty-five dollars (\$25.00) for each report, with a maximum limit of four hundred dollars (\$400) annually for each reporting facility.

(2) Any business or other outlet which sells gasoline, diesel, and other motor fuel only at retail to the public shall be exempt from paying the fees outlined in this subsection.

(b) The commission shall periodically assess the adequacy of the fees established in this section, and may, through the public hearing process, modify the fees imposed for each individual report, not to exceed the stated maximum limit for each reporting facility as indicated in subsection (a) of this section.

(c) Reports under the provisions of 42 U.S.C. §§ 11022 and 11023 shall be submitted to the office in accordance with, and within the specified time frames of the the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq., and shall include a company check issued by the facility or its parent corporation for the appropriate amount of each submission, as specified in this section, and the check shall be made payable to the office.

(d) Any facility or person failing to provide the reports and pay the fees, as specified in this section, shall be liable for civil penalties in such amount as the office shall find appropriate, not to exceed ten thousand dollars (\$10,000) per violation, and for payment of any expenses reasonably incurred by the state therefrom.

History. Acts 1995, No. 634, § 5.

12-84-107. Office of Hazardous Materials Emergency Management Revolving Fund.

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund account to be known as the Office of Hazardous Materials Emergency Management Revolving Fund.

(b) All moneys collected under this subchapter shall be deposited to the credit of that account as special revenues and shall be used by the State Office of Hazardous Materials Emergency Management to operate the office and enforce this chapter.

History. Acts 1995, No. 634, § 6.

A.C.R.C. Notes. Acts 1995, No. 634, § 6, was codified at this section and at former § 19-5-1070. Acts 1997, No. 1248, § 27, repealed former § 19-5-1070 but did not mention § 12-84-107.

Cross References. Office of Hazardous Materials Emergency Management Revolving Fund, § 19-6-418.

CHAPTER 85

DISASTER SERVICE VOLUNTEER LEAVE ACT

SECTION.

12-85-101. Definitions.

12-85-102. Terms of leave.

12-85-103. Limitation on certified volun-

teers — Lists, reports, guidelines, etc.

Effective Dates. Acts 1997, No. 268, § 7: Feb. 25, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas: (1) that disasters can occur at any time, as demonstrated by recent tornadoes in Mount Pleasant, Mountain View, Van Buren, and Fort Smith; (2) that State employees who want to offer their services in a disaster must now do so at great personal sacrifice; (3) that because of the great personal cost involved many state employees are unable to participate in disaster relief; (4) that certain state employees already possess many of the skills needed during times of disaster; (5) that this act provides a mechanism for state employees to contribute to disaster relief without losing personal financial support; and (6) that this act will increase the State's ability to respond to disasters by providing instant access to specifically trained disaster workers who know the State's bureaucracy and resources. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Govern-

nor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 383, § 6: Mar. 2, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that due to the recent damage caused by tornadoes in this state the additional leave grant by this act will enable more personnel to participate in the disaster relief efforts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date of the last house overrides the veto."

12-85-101. Definitions.

As used in this chapter:

(1) "Certified disaster service volunteer" means a person who has completed the necessary training for being and has been certified as a disaster service technician, specialist, coordinator, or officer by the American Red Cross;

(2) "Disaster" means a natural or technological event as defined in § 12-75-103(2) where victims cannot recover without assistance when such disaster is designated at Level II or above in the American National Red Cross Regulations and Procedures;

(3) "Specialized disaster relief" means one (1) or more of the following American Red Cross service categories in which a certified disaster service volunteer is trained:

- (A) Shelter management;
- (B) Mass feeding;
- (C) Family services;
- (D) Health services;
- (E) Public assistance inquiries;
- (F) Damage assessment;
- (G) A support function for services provided under subdivisions (3)(A)-(F) of this section; and
- (H) Any other service performed for the American Red Cross for which training is required; and

(4)(A) "State agency" means any agency, authority, board, bureau, commission, council, department, office, or officer of the state receiving an appropriation by the General Assembly.

(B) The term does not include state-supported institutions of higher learning or any county, municipality, school district, or other political subdivision of the State of Arkansas.

History. Acts 1997, No. 268, § 1.

12-85-102. Terms of leave.

(a) An employee of a state agency or an employee of a state-supported institution of higher learning may be granted leave from work with pay for not more than fifteen (15) working days in any calendar year to participate in specialized disaster relief, without loss of seniority, pay, annual leave, sick leave, compensatory time, offset time, or overtime wages if the employee:

(1) Is trained and certified as a disaster service volunteer by the American Red Cross;

(2) Has specialized disaster relief services that are requested by the American Red Cross in connection with a disaster; and

(3) Obtains consent from the chief executive officer of his or her state agency or state-supported institution of higher learning.

(b) The state agency or state-supported institution of higher learning shall compensate an employee granted leave under this section at the employee's regular rate of pay for those regular work hours during which the employee is absent from work.

(c) Leave under this subchapter shall be granted only for disaster relief services occurring within the State of Arkansas or for disaster relief services occurring within states contiguous to the State of Arkansas.

(d) An employee deemed to be on leave under this chapter shall not be deemed to be an employee of the state or of a state-supported institution of higher learning for purposes of workers' compensation.

History. Acts 1997, No. 268, § 2; 1999, No. 383, § 1; 1999, No. 489, § 1.

Amendments. The 1999 amendment by No. 383, inserted “or state-supported institution of higher learning” in (a) and (b); in (a), inserted “or an employee of a state-supported institution of higher learning” and “or her”; inserted “or of a state-supported institution of higher learning” in (d); and made stylistic changes.

The 1999 amendment by No. 489, substituted “calendar year” for “twelve-month period” in (a); and made a minor stylistic change.

Cross References. Attendance and leave, § 21-4-101 et seq.

Workers’ Compensation, § 11-9-101 et seq.

12-85-103. Limitation on certified volunteers — Lists, reports, guidelines, etc.

(a)(1) Notwithstanding the provisions of § 12-85-102, the number of state employees and employees of state-supported institutions of higher learning certified as disaster service volunteers shall not exceed one hundred (100) participants at any one (1) time.

(2) A list of such employees shall be maintained by the American Red Cross, with pertinent information provided to the state employer or state-supported institution of higher learning of each disaster service volunteer.

(b) Within sixty (60) days of any request made by the American Red Cross, a report shall be prepared by the American Red Cross and submitted to the Department of Finance and Administration stating the reasons and needs for any request made.

(c) The American Red Cross and the respective agencies with employees participating in the disaster service volunteer program shall promulgate necessary guidelines and directives to implement this chapter.

History. Acts 1997, No. 268, § 3; 1999, No. 383, § 2.

Amendments. The 1999 amendment inserted “and employees of state-sup-

ported institutions of higher learning” in (a)(1); inserted “or state-supported institution of higher learning” in (a)(2); and made stylistic changes.

TITLE 13

LIBRARIES, ARCHIVES, AND CULTURAL RESOURCES

CHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. LIBRARIES.
3. HISTORY COMMISSIONS.
4. PUBLIC RECORDS MANAGEMENT AND ARCHIVES.
5. MUSEUMS.
6. ARCHEOLOGICAL RESEARCH.
7. HISTORIC PRESERVATION.
8. ARKANSAS ARTS COUNCIL.
9. ARKANSAS ENTERTAINERS HALL OF FAME BOARD.
10. MEDAL OF HONOR COMMISSION. [REPEALED.]
11. SENIOR ARKANSANS HALL OF FAME.
12. ARKANSAS FORESTERS HALL OF FAME.

CHAPTER 1

GENERAL PROVISIONS

[Reserved]

CHAPTER 2

LIBRARIES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS STATE LIBRARY.
3. LIBRARY OF THE SECRETARY OF STATE.
4. COUNTY LIBRARIES.
5. MUNICIPAL LIBRARIES AND READING ROOMS.
6. INTERSTATE LIBRARY COMPACT.
7. CONFIDENTIALITY OF PATRONS' RECORDS.
8. ARKANSAS LIBRARY MATERIALS SECURITY LAW.
9. REGIONAL LIBRARY SYSTEM LAW.
10. ARKANSAS DIGITAL LIBRARY ACT.

A.C.R.C. Notes. Acts 1995, No. 64, § 1, as amended by Acts 1997, No. 250, § 252, provided: “(a) A Commission on Library Laws is created and shall be composed of seventeen (17) members to be appointed by the Governor as follows:

“ (1) Five (5) shall be library directors, one from each of the state’s five (5) library development districts;

“ (2) Four (4) shall be citizens who are interested in and knowledgeable about library services;

“ (3) Two (2) shall be representatives of municipal government;

“ (4) Two (2) shall be representatives of county government;

“ (5) One (1) shall be the state librarian or designee;

"(6) One (1) shall be a trustee from a library or library system that serves more than fifty thousand (50,000) people;

"(7) One (1) shall be a trustee from a library or library system that serves less than fifty thousand (50,000) people;

"(8) One (1) shall be an attorney who is knowledgeable about municipal and county law.

"(b) The governor shall make the appointments and select the chairperson from the commission membership no later than January 1, 1996.

"(c) The Commission shall hold its first meeting during January, 1996 at a time and place designated by the chairperson. Subsequent meetings will be held at the call of the chairperson or upon the written request of five (5) members of the commission.

"(d) The Governor may remove any commission member for incapacity, incompetence, neglect of duty or malfeasance in office.

"(e) The Governor shall fill any vacancy from a list of at least two (2) qualified candidates submitted within fifteen (15) days of the vacancy by the commission. The Governor shall make the appointment within fifteen (15) days after the

commission has submitted the candidates' names.

"(f) The members shall serve without compensation, but may be reimbursed for expenses in accordance with Arkansas Code 25-16-901 et seq."

Acts 1995, No. 64, § 2, provided: "(a) The Commission on Library Laws shall study existing laws of the state that affect the operation and development of public and regional libraries for the purpose of developing a Model Library Law. The Model Library Law shall define the relationship of the library to the municipality and county in which it is located and may also address any other aspect of law that the commission deems appropriate for the future development of effective library services in this state.

"(b) The Commission on Library Laws shall hold public hearings, may hire staff and consultants as monies are available, and may solicit, accept, retain and administer gifts, grants or donations of money, services or property.

"(c) The Commission shall report its findings and make its recommendations to the Governor and the Bureau of Legislative Research by January 1, 1997."

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

13-2-101. Failure to return books or pay replacement costs.

13-2-102. Multijurisdictional system agreements.

SECTION.

13-2-103. Library computer use — Policy — Signed agreement form required.

13-2-104. [Repealed.]

Effective Dates. Acts 2001, No. 912, § 3: Mar. 19, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the establishment of internet use policies for our public schools and libraries is vital; and that until this act goes into effect, minors will not be afforded the protection which will result from this act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Gov-

ernor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uni-

form Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is

declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

13-2-101. Failure to return books or pay replacement costs.

(a)(1) It is unlawful for any person who checks out or otherwise removes any books or other materials from any library owned by the state or any city, county, or other political subdivision of the state to fail or refuse to return those books or materials to the library or to pay the replacement costs of lost books and library materials within the time prescribed by the library rules.

(2) However, before a charge of violating the provisions of this section shall be filed against any person, the library shall send written notice, by ordinary mail, addressed to the last known address of the person who checked out or otherwise removed the books or materials from the library, notifying the person that if the books or materials are not returned to the library within thirty (30) days from the date of the notice, charges will be filed against the person under the provisions of this section and upon conviction, such person may be fined in an amount as provided in this section.

(b) Any person violating the provisions of this section shall be subject to a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100), and each violation of this section shall constitute a separate offense.

History. Acts 1987, No. 555, §§ 1, 2.

impliedly repealed by Acts 1995, No. 906,

A.C.R.C. Notes. This section may be

which is codified as § 13-2-801 et seq.

13-2-102. Multijurisdictional system agreements.

All county public libraries created under the authority of § 13-2-401 et seq. and all city public libraries created under the authority of § 13-2-501 et seq. which have entered into interlocal cooperation agreements or any other formal or informal or contractual arrangements to form a joint city-county library, a regional library or library system, or any other form of multiple-jurisdiction library system which are not in written format shall within one (1) year formalize and renew in writing all such agreements and contractual arrangements among the libraries.

History. Acts 1997, No. 402, § 14.

"On and after the effective date of this act.". The effective date of Acts 1997, No. 402, was August 1, 1997.

A.C.R.C. Notes. As enacted by Acts 1997, No. 402, § 14, this section began:

13-2-103. Library computer use — Policy — Signed agreement form required.

(a) The board of directors of each library operated as an entity of the state or any city, county, or other political subdivision of the state with one (1) or more public access computers shall develop, adopt, and implement a written policy that:

(1) Establishes and maintains a system to prevent a minor from gaining computer access to materials harmful to minors as defined in § 5-68-501;

(2) Provides for:

(A) Suspending the privilege of a minor to use the public access computers if the minor violates the policy; and

(B) Revoking such a privilege for a repeat offender; and

(3) Requires each user to sign a computer-use agreement form outlining proper and improper use of public access computers prior to the user being allowed to access the computer equipment.

(b) For purposes of this section, “public access computer” means a computer that is:

(1) Located in a public school or public library;

(2) Accessible by a minor; and

(3) Connected to any computer communication system such as, but not limited to, what is commonly known as the Internet.

(c) Copies of the standards and rules for the enforcement of this section shall be submitted to the Arkansas State Library.

History. Acts 2001, No. 912, § 2; 2003, No. 1473, § 28.

A.C.R.C. Notes. As enacted by Acts 2001, No. 912, subsection (a) contained the following language following “implement”: “by August 1, 2001.”

Amendments. The 2003 amendment, in (a), deleted “by August 1, 2001” following “implement”; in (a)(1), inserted “and maintains” following “establishes” and

substituted “a minor” for “minors”; inserted the subdivision designations in (a)(2); in (a)(2)(B), deleted “provides for” preceding “revoking” and substituted “offender” for “offenders”; in (a)(3), substituted “each user” for “all users” and “his or her” for “their”; and added (c).

Cross References. School computer use policy, § 6-21-107.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 UALR L.J. 453.

13-2-104. [Repealed.]

Publisher’s Notes. This section, concerning library computer use policy, was repealed by Acts 2003, No. 1473, § 28.

This act was derived from Acts 2001, No. 1533, §§ 1, 3. For present law, see § 13-2-103.

SUBCHAPTER 2 — ARKANSAS STATE LIBRARY

SECTION.

- 13-2-201. State and local publications defined — Exemptions.
- 13-2-202. Effect of subchapter.
- 13-2-203. Arkansas State Library created.
- 13-2-204. State Librarian.
- 13-2-205. State Library Board.
- 13-2-206. Meetings of board.
- 13-2-207. Powers and duties generally.
- 13-2-208. Cooperation with other libraries.
- 13-2-209. Agreements with Arkansas History Commission and Secretary of State.

SECTION.

- 13-2-210. Depository for federal, state, and local documents.
- 13-2-211. Depository agreements and eligibility.
- 13-2-212. State and Local Government Publications Clearinghouse.
- 13-2-213. Number of copies provided clearinghouse.
- 13-2-214. Libraries of colleges and universities — Contracts — Status.

Cross References. Depositories, § 25-18-301 et seq.

Effective Dates. Acts 1979, No. 489, § 12; July 1, 1979.

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes

effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-2-201. State and local publications defined — Exemptions.

(a) As used in this subchapter, the terms "state publication" and "local publication" shall include any document issued or printed by any state agency or local government which may be released for distribution, but these terms do not include:

(1) The bound volumes of the printed acts of each of the sessions of the General Assembly;

(2) The bound volumes of the Arkansas Supreme Court Reports;

(3) Printed copies of the Arkansas Statutes Annotated of 1947 or pocket part supplements thereto;

(4) Any other printed document which may be obtained from the office of the Secretary of State upon the payment of a charge or fee therefor;

(5) Correspondence and intraoffice or interoffice or agency communications or documents which are not of vital interest to the public;

(6)(A) Publications of state or local agencies intended or designed to be of limited distribution to meet the requirements of educational,

cultural, scientific, professional, or similar use of a limited or restricted purpose and which are not designed for general distribution.

(B) Similarly, other publications or printed documents which are prepared to meet the limited distribution requirements of a governmental grant or use which are not intended for general distribution shall also be deemed exempt from the provisions of this subchapter unless funds have been provided for printing of a quantity of such publications sufficient for distribution.

(b) A depository copy of each document noted in subdivisions (a)(1), (2), (3), and (6) shall be made available to the Arkansas State Library.

History. Acts 1979, No. 489, § 8;
A.S.A. 1947, § 6-307.

13-2-202. Effect of subchapter.

(a)(1) Nothing in this subchapter shall repeal, alter, or change the duties and responsibilities of the Secretary of State to maintain a library of official books, records, and documents under the provisions of § 13-2-301 et seq. and other laws of this state which impose specific duties upon the Secretary of State.

(2) The library maintained by the Secretary of State under the provisions of § 13-2-301 et seq. shall be designated as the Library of the Secretary of State, and the Secretary of State shall be librarian thereof.

(b) Nothing in this subchapter shall repeal, alter, or change the powers, duties, and responsibilities of the Arkansas History Commission as defined by law.

History. Acts 1979, No. 489, § 10;
A.S.A. 1947, § 6-307n.

13-2-203. Arkansas State Library created.

(a) There is created and established within the Department of Education a division to be known as the Arkansas State Library.

(b) The library shall function within the department in the same manner as provided by agencies transferred to the principal department of government by a type 1 transfer under the provisions of § 25-2-104 and which shall be adequately funded and properly housed in a designated building at the seat of state government.

History. Acts 1979, No. 489, §§ 1, 2;
A.S.A. 1947, § 6-301.

13-2-204. State Librarian.

(a) The Arkansas State Library shall be headed by the State Librarian, to be appointed by the State Library Board. The librarian shall serve for such time and for such terms as the board may prescribe.

(b) The State Librarian shall be a person of good professional standing and reputation, holding at least a master's degree from an

American Library Association-accredited graduate school of library science and shall have had experience in library administration in academic, public, school, or special libraries.

(c) The State Librarian shall have charge of the work of the library, and shall perform such other duties as the board may prescribe.

History. Acts 1979, No. 489, §§ 1, 2;
A.S.A. 1947, § 6-301.

13-2-205. State Library Board.

(a) There is created the State Library Board.

(b)(1) The board shall consist of seven (7) members, to be appointed by the Governor subject to confirmation by the Senate.

(2) The members of the board shall be appointed by the Governor for reasons of their interest in libraries and in statewide library development.

(3)(A) One (1) member of the board shall be appointed from each of the four (4) congressional districts of this state in existence on July 1, 1979, and three (3) members shall be selected from the state at large.

(B) However, no more than two (2) members of the board shall be appointed from any one (1) congressional district.

(4)(A) All members appointed to the board shall serve terms of seven (7) years and until their successors are appointed and qualified.

(B) No board member shall be appointed to serve for more than two (2) consecutive terms, including partial terms.

(c) Vacancies occurring on the board due to death, resignation, or other reason shall be filled by appointment of the Governor for the remainder of the unexpired portion of the term in the same manner as for the initial appointment.

(d)(1) Members of the board shall receive per diem at the rate established by law for attending board meetings or for performing other services required of members in their official capacity as members of the board.

(2) In addition, members shall be entitled to mileage at the rate provided by law for official travel of state employees for each mile in traveling from their place of residence to meetings of the board and returning or for attending to other authorized business of the board.

History. Acts 1979, No. 489, § 2; A.S.A. 1947, § 6-301; Acts 1997, No. 250, § 73; 1997, No. 1152, § 1.

Publisher's Notes. Acts 1979, No. 489, § 2, also provided, in part, that the Arkansas Library Commission was abolished and that no less than four members of the commission serving on July 1, 1979, should be appointed as initial members of the State Library Board.

The terms of the members of the State

Library Board are arranged so that one term expires every year.

Acts 1979, No. 489, § 10, abolished the State Library Board created by Acts 1927, No. 244, § 5, as amended, and transferred its functions and duties to the State Library Board created by this section.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 1997, No. 1152. Acts 1997, No. 250 amended subsection (d) of

this section to read as follows: "(d) Members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq."

As enacted by Acts 1997, No. 1152, § 1, subdivision (b)(4)(B) began: "Beginning January 1, 1998,".

13-2-206. Meetings of board.

(a) The State Library Board shall meet at such place or places and shall keep such records as it may deem appropriate.

(b) The board shall select annually a chair and any other officers as it deems necessary.

(c) The board shall adopt policies and bylaws governing its meetings, the conduct of its business, and the business of the Arkansas State Library.

(d) The State Librarian shall serve as Executive Secretary of the State Library Board, but without a vote thereon, and shall attend all of the board meetings and keep records thereof.

(e) A majority of the board's members shall constitute a quorum for the transaction of business, and all business transacted by the board shall be by majority vote of its members.

History. Acts 1979, No. 489, §§ 1, 3;
A.S.A. 1947, §§ 6-301, 6-302.

13-2-207. Powers and duties generally.

Within the limitations of facilities and funds provided for the Arkansas State Library, the library shall:

(1) Acquire books and other library materials by purchase, exchange, gift, grant, or donation and catalog and maintain those books and materials and make them available for reference and research use of the public and the public officials and employees of this state and its political subdivisions under such rules and regulations established by the State Library Board as may be reasonably necessary to govern the use and preservation thereof;

(2)(A) Establish and maintain a collection of books and library materials of and pertaining to Arkansas and its people, resources, and history and maintain the collection as a separate section within the library;

(B) Operate and maintain a collection of multimedia materials to complement book collections and establish reasonable rules and regulations for their use and preservation; and

(C) Provide specialized services to the blind and individuals with physical disabilities under a cooperative plan with the National Library Service for the Blind and Physically Handicapped of the Library of Congress;

(3) Assist communities, libraries, schools, colleges, universities, study and civic clubs and groups, charitable and penal institutions, state agencies and departments, county and municipal governments, and any other institutions, agencies, and individuals with books, information, library materials, and services as needed;

(4) Direct the establishment and development of county and regional library systems and programs, devise and implement a certification plan for public librarians, and assist in the design and building of public library facilities;

(5) Conduct courses of library instruction, hold library institutes in various parts of the state, and encourage the recruitment and training of library personnel in any suitable manner;

(6) Cooperate with the Department of Education and the Department of Higher Education in devising plans for the development of libraries, in aiding librarians in their administration, in certification policies, and in formulating rules and regulations for the use of libraries;

(7) Receive gifts of library materials, money, and real and personal property, to be held in trust, subject to the terms of the donation for the purposes of this subchapter;

(8) Be the official state library agency designated to administer state and federal programs of aid to libraries and to undertake such other activities and services as will further statewide development of libraries and library systems through interlibrary, interagency, and interstate cooperation in order to secure efficient and effective library service for all Arkansans;

(9)(A) Cooperate with the various officers, departments, and agencies of state government in pooling and sharing library materials and programs so that duplication of services and facilities shall be minimized and so that maximum utilization may be made of the library services and resources of this state.

(B) In furtherance of subdivision (9)(A) of this section, the library may enter into contracts or agreements with state officers, departments, and agencies for the provision of special library services where needed and, under the terms of the contract or agreement, may provide for the method of financing special costs incurred by the library in furnishing and maintaining such special library services; and

(10) Perform all other functions and services that are common to the purposes and objectives of a state library.

History. Acts 1979, No. 489, § 4; A.S.A. 1947, § 6-303; Acts 1997, No. 208, § 9.

A.C.R.C. Notes. Acts 1997, No. 208, § 1, codified as § 22-4-408, provided: "Legislative intent and purpose. The General Assembly hereby acknowledges that many of the laws relating to individuals with disabilities are antiquated, functionally outmoded, derogatory, ambiguous or are inconsistent with more recently enacted provisions of the law. Consequently, it is the intent of the General Assembly and the purpose of this act to clarify the relevant chapters of Titles 1, 6, 9, 13, 14,

16, 17, 20, 22, 23, and 27 of the Arkansas Code Annotated of 1987."

Publisher's Notes. Acts 1979, No. 489, § 7, provided that all powers and duties formerly vested in the Arkansas Library Commission, not specifically repealed by or inconsistent with the act, should be transferred to the State Library. It further provided for the transfer of all of the commission's property to the State Library to be used as the board should determine.

Acts 1979, No. 489, § 8, provided, in part, that all powers and duties formerly

vested in the Secretary of State under Acts 1971, No. 163 (§§ 25-18-306 — 25-18-308), should be transferred to the Arkansas State Library.

Acts 1979, No. 489, § 9, provided, in part, that all powers, functions, and duties of the Arkansas Library Commission with respect to the Interstate Library Compact, § 13-2-601 et seq., and all con-

tracts and agreements entered into by the commission under the compact, should be performed by the State Library and the State Library Board.

Cross References. Preservation of state publications, § 13-3-108.

Records of public officials, preservation, § 13-3-107.

13-2-208. Cooperation with other libraries.

(a) The Arkansas State Library shall cooperate with the public and private libraries in the State of Arkansas and may enter into necessary agreements with libraries in other states and the Library of Congress for the sharing of library books, documents, facilities, or services under such terms and conditions as the State Library Board shall determine to be within the scope and services of the Arkansas State Library and in keeping with the state's library programs.

(b)(1) The Arkansas State Library shall obtain reports from all libraries and each year report the condition, growth, development, and manner of development of those libraries and such other facts and statistics as may be of public interest.

(2) The Arkansas State Library shall include a summary thereof in its biennial report, which shall be filed with the Governor and the presiding officer of each house of the General Assembly.

History. Acts 1979, No. 489, § 6;
A.S.A. 1947, § 6-305.

13-2-209. Agreements with Arkansas History Commission and Secretary of State.

(a) The Arkansas State Library, acting through the State Library Board, is authorized to enter into necessary agreements with the Arkansas History Commission with respect to an overall plan and design to assure that the functions and materials of the Arkansas State Library and the commission may be convenient to the public and public officials of this state and to its political subdivisions, and to assure that unnecessary duplication of services and facilities is minimized.

(b)(1)(A) In addition, the library is authorized to enter into contracts and agreements with the Secretary of State for the custody, storage, cataloging, or display in the library or State Archives of any books, records, documents, or other papers in the custody of the Secretary of State.

(B) This shall be done under such terms and conditions as may be mutually agreed to by the parties.

(2) The library is also authorized to accept custody and control over any books, records, and documents which the Secretary of State is now required by law to keep or maintain in his or her official files or volumes, if:

(A) The Secretary of State shall determine that the records could be properly cataloged, stored, and preserved in the Arkansas State Library or State Archives; and

(B) The Governor agrees in writing for the transfer of the books, records, and documents from the Secretary of State to the Arkansas State Library or State Archives, in accordance with the terms of the agreement made in writing signed by the Secretary of State and the State Librarian or the State Historian for the custody, cataloging, preservation, and care of the records.

History. Acts 1979, No. 489, § 5;
A.S.A. 1947, § 6-304.

13-2-210. Depository for federal, state, and local documents.

The Arkansas State Library shall serve as the state's regional depository library for federal documents and shall become the official depository for state and local documents.

History. Acts 1979, No. 489, § 8;
A.S.A. 1947, § 6-307.

13-2-211. Depository agreements and eligibility.

(a) The Arkansas State Library may enter into depository agreements with any city, county, district, regional, town, school, college, or university library in this state.

(b) The Arkansas State Library shall establish standards for eligibility as a depository library under this section, § 13-2-210, and §§ 13-2-212 — 13-2-214. The standards may include and take into account:

- (1) The type of library;
- (2) The library's ability to preserve state and local publications and to make them available for public use; and
- (3) The library's geographical location, in order to assure that the publications are conveniently accessible to residents in all areas of the state.

History. Acts 1979, No. 489, § 8;
A.S.A. 1947, § 6-307.

13-2-212. State and Local Government Publications Clearinghouse.

(a) The Arkansas State Library shall create and maintain a State and Local Government Publications Clearinghouse.

(b) The Arkansas State Library shall make such rules and regulations as may be necessary to carry out the purposes of the clearinghouse.

(c)(1) All state agencies, including the General Assembly and its committees, constitutional officers, any department, division, bureau,

board, commission, or agency of the State of Arkansas, all local governments, including cities of the first and second class and incorporated towns, and counties, and all boards, commissions, or agencies thereof shall furnish to the Arkansas State Library, upon release, a specified number of copies of each of its state or local publications.

(2) These publications shall be furnished to enable the clearinghouse to meet the needs of the Depository Library System and to provide library loan services to those libraries without depository status.

(3) The distribution will be required only if sufficient funds are appropriated for the printing of these materials by the agencies, boards, and commissions and for the distribution thereof by the Arkansas State Library to depository libraries.

(d) At least quarterly, and more frequently if funds are available, the clearinghouse of the Arkansas State Library shall publish and, upon request, distribute a list of state publications to all state agencies and contracting depository libraries.

History. Acts 1979, No. 489, § 8;
A.S.A. 1947, § 6-307.

13-2-213. Number of copies provided clearinghouse.

(a) If sufficient funds are available, each state and local agency printing or duplicating publications of the type which are to be made available to the State and Local Government Publications Clearinghouse shall print or duplicate fifty (50) additional copies or a lesser number as may be requested by the Arkansas State Library, for deposit with the clearinghouse for distribution to established depository libraries or interstate library exchange.

(b) However, if a state agency or a local governmental agency does not have sufficient funds or resources available to furnish the fifty (50) copies to the clearinghouse, it shall notify the Arkansas State Library and deliver to the clearinghouse three (3) copies of each publication to be maintained in the Arkansas State Library, to be indexed and made available on loan to participating libraries through the interlibrary loan services of the Arkansas State Library.

History. Acts 1979, No. 489, § 8;
A.S.A. 1947, § 6-307.

13-2-214. Libraries of colleges and universities — Contracts — Status.

(a) The Arkansas State Library is authorized to enter into contracts or agreements with the Mullins Library of the University of Arkansas at Fayetteville and the library of each of the state-supported institutions of higher learning in this state to provide through the State and Local Government Publications Clearinghouse any of the clearinghouse, exchange, depository, or selective or partial depository duties or functions of any of the libraries, or to provide depository library services

in behalf of any of the libraries that may be mutually agreed to by the Arkansas State Library and the Mullins Library of the University of Arkansas at Fayetteville or one (1) of the several institutions of higher learning of this state.

(b)(1) Nothing in this subchapter shall be construed to repeal, amend, modify, or affect the status of the Mullins Library of the University of Arkansas at Fayetteville as a depository of state, city, and county documents under the provisions of §§ 25-18-301 — 25-18-304.

(2) This subchapter shall not repeal, amend, modify, or affect the powers of the Mullins Library of the University of Arkansas at Fayetteville or the library of each of the state-supported institutions of higher learning to be a selective or partial depository of state, city, and county documents under the provisions of §§ 25-18-306 — 25-18-308.

History. Acts 1979, No. 489, § 8; were repealed by Acts 1993, No. 1224, A.S.A. 1947, § 6-307. § 6.

Publisher's Notes. Sections 25-18-302 – 25-18-304, referred to in subsection (b),

SUBCHAPTER 3 — LIBRARY OF THE SECRETARY OF STATE

- SECTION.
13-2-301. Librarian.
13-2-302. Binding of books and documents.
13-2-303. [Repealed.]
13-2-304. Procuring copies of missing books.
13-2-305. [Repealed.]

- SECTION.
13-2-306. Expenses of procuring works.
13-2-307. Accounts.
13-2-308. Privilege of using books.
13-2-309. Removal of books.
13-2-310. Injury to or failure to return books or charts — Penalty.

13-2-301. Librarian.

The Secretary of State shall be librarian for the Library of the Secretary of State and shall have custody and direction of all books, papers, maps, charts, and all other things belonging to it, and he or she shall take special care that none of them be lost or injured.

History. Rev. Stat., ch. 144, § 1; C. & M. Dig., § 4428; Pope's Dig., § 5463; A.S.A. 1947, § 5-301.

Publisher's Notes. Section 13-2-202 provides that nothing in §§ 13-2-201 et seq., which created the State Library

Board, shall affect the duties of the Secretary of State under this subchapter and that the library maintained by the Secretary of State shall be known as the Library of the Secretary of State.

13-2-302. Binding of books and documents.

The Secretary of State shall cause to be bound, if not already done, in a cheap and substantial manner, three (3) copies of each of the acts of the General Assembly.

History. Rev. Stat., ch. 144, § 2; C. & M. Dig., § 4429; Pope's Dig., § 5464; A.S.A. 1947, § 5-302; Acts 2001, No. 791, § 1.

Amendments. The 2001 amendment substituted “acts of the General Assembly of this state” for “following works”; and deleted (1) through (4).

13-2-303. [Repealed.]

Publisher’s Notes. This section, concerning books arranged in a convenient room, was repealed by Acts 2001, No. 791, § 2. The section was derived from Rev. Stat., ch. 144, § 3; C. & M. Dig., § 4430; Pope’s Dig., § 5465; A.S.A. 1947, § 5-303.

13-2-304. Procuring copies of missing books.

Where there shall be a deficiency in any of the acts, journals, or other works, it shall be the duty of the Secretary of State to correspond with the proper officer for the purpose of procuring copies of the different works, and, if not otherwise procured, he or she shall purchase them and place them in the Library of the Secretary of State.

History. Rev. Stat., ch. 144, § 4; C. & M. Dig., § 4431; Pope’s Dig., § 5466; A.S.A. 1947, § 5-304.

13-2-305. [Repealed.]

Publisher’s Notes. This section, concerning the purchase of books as directed by the General Assembly, was repealed by Acts 2001, No. 791, § 3. The section was derived from Rev. Stat., ch. 144, § 5; C. & M. Dig., § 4432; Pope’s Dig., § 5467; A.S.A. 1947, § 5-305.

13-2-306. Expenses of procuring works.

All expenses of procuring copies of acts, journals, and other works as are mentioned in this subchapter shall be paid out of the contingent fund of the General Assembly.

History. Rev. Stat., ch. 144, § 6; C. & M. Dig., § 4433; Pope’s Dig., § 5468; A.S.A. 1947, § 5-306.

13-2-307. Accounts.

The Auditor of State shall adjust the accounts of the Secretary of State as Librarian for the Library of the Secretary of State and draw warrants for the payment of them.

History. Rev. Stat., ch. 144, § 7; C. & M. Dig., § 4434; Pope’s Dig., § 5469; A.S.A. 1947, § 5-307.

13-2-308. Privilege of using books.

The officers of the several departments of the state, who are entitled to the use of the Library of the Secretary of State, may introduce citizens or strangers into the library, who shall have the privilege, during all seasonable hours, to read any of the books therein.

History. Rev. Stat., ch. 144, § 11; C. & M. Dig., § 4438; Pope's Dig., § 5473; A.S.A. 1947, § 5-311.

13-2-309. Removal of books.

(a) No person shall be permitted to remove any book from the Library of the Secretary of State except the Governor, Auditor of State, Treasurer of State, members of the General Assembly, Justices of the Supreme Court and judges of circuit courts, and attorneys for the state.

(b) No person shall be permitted to remove any book from the library without giving a receipt therefor to the Secretary of State.

History. Rev. Stat., ch. 144, §§ 8, 9; C. §§ 5470, 5471; A.S.A. 1947, §§ 5-308, & M. Dig., §§ 4435, 4436; Pope's Dig., 5-309.

13-2-310. Injury to or failure to return books or charts — Penalty.

If any person shall injure or fail to return any book, map, or chart taken from the Library of the Secretary of State for more than three (3) months, he or she shall forfeit and pay to the Secretary of State, for the use and benefit of the library, three (3) times the value thereof, or of the set to which it belongs, to be recovered in the name of the state for the use of the library.

History. Rev. Stat., ch. 144, § 10; C. & M. Dig., § 4437; Pope's Dig., § 5472; A.S.A. 1947, § 5-310.

SUBCHAPTER 4 — COUNTY LIBRARIES

SECTION.

- 13-2-401. Establishment.
- 13-2-402. Librarian.
- 13-2-403. Multidistrict counties.
- 13-2-404. County public library fund — Claims.
- 13-2-405. Surplus funds — Matching funds.
- 13-2-406. Library services for outside the

SECTION.

- county — Fees for county public libraries.
- 13-2-407. Joint city-county and regional public library systems.
- 13-2-408. Injuries to county public library property — Penalty.
- 13-2-409. County library tax petition — Filing fee.

A.C.R.C. Notes. References to “this subchapter” in §§ 13-2-401 — 13-2-408 may not apply to § 13-2-409, which was enacted subsequently.

Cross References. Local government reserve funds, § 14-73-101 et seq.

Public bodies corporate and politic, § 25-20-201 et seq.

Supreme Court Reports, §§ 25-18-210, 25-18-218.

RESEARCH REFERENCES

Am. Jur. 56 Am. Jur. 2d, Mun. Corp., § 542.

13-2-401. Establishment.

(a) The county quorum courts of the several counties shall have the power and authority to establish, maintain, and operate county public libraries or public library services or systems in the manner and with the functions prescribed in this subchapter, and counties may appropriate money for these purposes.

(b) The county quorum court shall also have the power to establish in cooperation with another county or other counties a joint public library or a joint library service or system for the benefit of the cooperating counties.

(c)(1) Establishment of county libraries or library systems shall be evidenced by an ordinance of the county quorum court or by an agreement between the governing bodies of the several counties participating in a regional library system or coordinating library services under an interlocal agreement.

(2) Appropriations for the establishment and maintenance of a county library or library system shall be in the manner prescribed by law for expenditures by counties.

(d)(1) In addition to county library boards created under this section, §§ 13-2-402, and 13-2-404, a county quorum court may by ordinance establish a county library board to conduct the affairs of the county public library or its library services or system in accordance with the law for establishing other county advisory or administrative boards found at § 14-14-705.

(2) Regardless of the term length, no person, whether a current trustee or a person being considered for appointment as a trustee, who has served two (2) or more consecutive terms shall be eligible for appointment or reappointment to serve until at least one (1) year shall have passed since he or she last served on the board.

History. Acts 1927, No. 244, § 1; Pope's Dig., § 2629; A.S.A. 1947, § 17-1001; Acts 1997, No. 402, § 1.

A.C.R.C. Notes. As enacted by Acts 1997, No. 402, § 1, subdivision (d)(2) began: "Beginning January 1, 1998,".

13-2-402. Librarian.

(a) No person shall be appointed to the office of county librarian unless prior to appointment the person is recommended for appointment by the county library board, if the board has been created.

(b) The county librarian shall conduct the library according to the most acceptable library methods.

History. Acts 1927, No. 244, § 4; Pope's Dig., § 2632; A.S.A. 1947, § 17-1004; Acts 1997, No. 402, § 2.

13-2-403. Multidistrict counties.

In any county in this state which is divided into two (2) districts and which has two (2) county seats, each district of the county may be considered as an individual county for the purpose of levying a county library tax under the provisions of Arkansas Constitution, Amendment 38.

History. Acts 1973, No. 239, § 1; A.S.A. 1947, § 17-1001.1.

13-2-404. County public library fund — Claims.

(a)(1) All tax and other county-appropriated funds of the county public library shall be in the custody of the county treasurer and shall constitute a separate fund to be known as the county public library fund.

(2) A county which supports a county public library or library system with a library tax under Arkansas Constitution, Amendment 38, shall by ordinance of the quorum court of the county levy a tax at a millage rate approved by the voters on all taxable property within the county to be used for the support, operation, and maintenance of the public library or public library system located in the county.

(3) In addition to the levy authorized by this section, the quorum court in a county may appropriate from any available funds for the support, operation, and maintenance of a public library or public library system located in the county.

(4) Further, the quorum court in a county may appropriate from the county funds and any other available funds for the support, operation, and maintenance of a regional public library system in which the county has agreed to participate in coordination with the libraries of other counties and other cities.

(b)(1) Funds received by the county public library by gift, bequest, devise, or donation or from fees or fines may remain in the custody of the county library board, if a board has been created, or deposited with the county treasurer for the county public library fund if the county library board so chooses or if a board has not been created.

(2) Funds retained by the board shall be used by it for the establishment, expansion, construction, maintenance, and operation of the county library.

(c)(1) No claims against the county public library fund shall be approved by the county court until acted upon by the county library board, if the board has been created, and payment authorized by the board.

(2) The claims, when certified as valid claims by the board, shall be acted upon as all other claims against the county.

History. Acts 1927, No. 244, § 2; § 1; A.S.A. 1947, § 17-1002; Acts 1995, Pope's Dig., § 2630; Acts 1981, No. 49, No. 232, § 2; 1997, No. 402, § 3.

13-2-405. Surplus funds — Matching funds.

(a) The governing board of any county public library is authorized to use any surplus funds available in the operating or maintenance account of the public library for matching federal or other funds available for financing necessary expansions or improvements of the public library.

(b) Before using any of the funds for the purposes of this section, the governing board of the county public library shall adopt a resolution setting forth the:

- (1) Amount of the funds to be used;
 - (2) Purposes for which the funds are to be used;
 - (3) Amount of matching funds to be derived by the use of the funds;
- and

- (4) Nature of the expansions or improvements to be made.

(c) The resolution shall include a declaration that the use of the funds will not jeopardize any existing program of the county public library and that the funds are not needed for any existing or anticipated maintenance or operating purpose of the library.

(d) The governing board of any county library using funds as authorized in this section is authorized to enter into contracts or agreements necessary to accomplish the purposes of this section.

(e)(1) With respect to the purposes of this section, the governing board is authorized to accept gifts, grants, or donations of both real and personal property from the federal government or from any person, firm, or corporation.

(2) These gifts, grants, or donations shall be used for the purposes of the expansion or improvement of the public library.

History. Acts 1965, No. 402, § 1; **Publisher's Notes.** Acts 1965, No. A.S.A. 1947, § 19-3205.1. 402, § 1, is also codified as § 13-2-504.

13-2-406. Library services for outside the county — Fees for county public libraries.

(a) Any county public library may extend the privilege and use of the library and library services to persons residing outside the county upon the terms and conditions as the library boards may prescribe by regulation or policy.

(b) In addition, reasonable reimbursements may be collected by the county public library for providing any special library services beyond the customary library services, provided that they are determined in advance and in writing by the library board, if a board has been created.

History. Acts 1997, No. 402, § 4.

13-2-407. Joint city-county and regional public library systems.

(a)(1) Any county library board, with the consent of its county quorum court, the board of trustees of any municipal public library, any group of municipal public libraries, and any combination of counties and cities may contract with each other or among themselves to create, maintain, and support a joint city-county public library system or regional public library system or may enter into an interlocal cooperation agreement among themselves to coordinate public library services among the different jurisdictions.

(2) Such a contract, interlocal agreement, or other arrangement shall contain terms, agreements, and conditions as may be agreed upon by the county library board, the county quorum court, and the board of trustees of the several municipalities with the final approval of the governing body of the cities.

(3) The expenses of the regional public library system or the cooperating libraries shall be apportioned between or among the entities concerned on such a basis as shall be agreed upon in the ordinance, contract, arrangement, or interlocal agreement.

(4) The library system headquarters building shall be located at a place in one (1) of the counties to be agreed upon by the quorum courts of the various counties in the regional public library or with a cooperating library system.

(b) Any county library board may contract with an entity to provide library services at any location.

(c) Any joint city-county public library system or regional public library system may extend the privilege and use of the library and library services to persons residing outside the several jurisdictions of the library system upon the terms and conditions as the several library boards may prescribe by regulations or policy.

(d)(1) If not provided for by the library system or by one (1) of the participating jurisdictions of the library system, all eligible employees of a joint city-county library or a regional public library system shall be entitled to the comparable retirement and fringe benefit coverage as are other county employees in the headquarters county.

(2) Costs for these benefits shall be apportioned among the participating jurisdictions of the joint city-county library or a regional public library system.

History. Acts 1997, No. 402, § 5.

13-2-408. Injuries to county public library property — Penalty.

(a) In addition to any penalties prescribed and notwithstanding any provisions to the contrary in the Arkansas Library Materials Security Law, § 13-2-801 et seq., the county quorum court shall have the power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon library grounds or property or injuring or failing to return any book, periodical, or property belonging to the library.

(b) The county library board or the county librarian may refuse the use of the library to such offenders.

History. Acts 1997, No. 402, § 6.

13-2-409. County library tax petition — Filing fee.

When a petition is filed as authorized in Arkansas Constitution, Amendment 38, as amended by Amendment 72, to submit to the electors of a county the question of levying, increasing, decreasing, or repealing a county library tax and the petition or the sponsor of the petition requests that the question be submitted at a special election, the sponsor of the petition may be required by the county quorum court to pay a filing fee not to exceed two thousand dollars (\$2,000) which shall be used to offset a portion of the cost of calling and conducting the special election.

History. Acts 2001, No. 1377, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 13-2-401 — 13-2-408

may not apply to this section, which was enacted subsequently.

SUBCHAPTER 5 — MUNICIPAL LIBRARIES AND READING ROOMS

SECTION.	SECTION.
13-2-501. Establishment — Appropriations.	13-2-507. Contracts for library services outside the city — Fees for special library services.
13-2-502. Board of trustees.	13-2-508. Joint municipal libraries — Joint city-county libraries.
13-2-503. Powers of trustees — Librarian and staff.	13-2-509. Trustees’ report.
13-2-504. Surplus funds — Matching funds.	13-2-510. City and town library services.
13-2-505. Donations for library.	
13-2-506. Injuries to library property — Penalty.	

Cross References. Local government reserve funds, § 14-73-101 et seq.

Public bodies corporate and politic, § 25-20-201 et seq.

Public libraries, Ark. Const. Amend. 30.

RESEARCH REFERENCES

C.J.S. 62 C.J.S., Mun. Corp., § 679.

13-2-501. Establishment — Appropriations.

- (a)(1) The city council or governing body of any city of the first class may by ordinance establish and maintain a public library for the use and benefit of the inhabitants of the city.
- (2) The governing body of any city which levies a city library tax in accordance with Arkansas Constitution, Amendment 30, shall estab-

lish, operate, and maintain a city public library or library services for the citizens of the city.

(b)(1) In cities of the first class, on petition of five percent (5%) of the voters requesting the establishment of a public library, the city council or governing body of the municipality within thirty (30) days after the filing of the petition shall call an election to be held within sixty (60) days thereafter.

(2)(A) The election shall be advertised and conducted as special elections are required by law to be.

(B) The ballots shall be marked "FOR Public Library", "AGAINST Public Library".

(3) If a majority of the electors voting at the election vote in favor of the establishment of a library, it shall be the duty of the city council or the governing body of the municipality immediately to establish a public library and continue to maintain it, in accordance with the provisions of this section.

(c) When a library has been established, the city council or the governing body of the municipality may allot for library purposes a prescribed proportion of its municipal revenues to be used exclusively for the maintenance of the library.

(d)(1) A city which supports a city public library or library system with a city library tax under Arkansas Constitution, Amendment 30, shall by ordinance of the governing body of the municipality appropriate all tax revenues raised by the millage approved by the voters on all taxable property within the city to be used for the support, operation, and maintenance of the public library or public library system located in the city or for library services from within a library system in which the city participates.

(2) In addition to the levy authorized in this subsection, the governing body of the municipality may make contributions from any available funds for the support, operation, and maintenance of a city public library or public library system located in the city or for library services from within a library system in which the city participates.

(3) Further, the governing body of a municipality may make contributions from the city funds and any other available funds for the support, operation, and maintenance of a joint city-county or regional public library system in which the city has agreed to participate in coordination with the libraries of other cities and other counties.

History. Acts 1931, No. 177, § 1; 3201; Acts 1991, No. 417, § 1; 1997, No. Pope's Dig., § 9590; A.S.A. 1947, § 19- 402, § 7.

13-2-502. Board of trustees.

(a)(1) When any city council or governing body of a city of the first class has decided to establish and maintain a public library under this subchapter, the mayor of the city with the approval of the city council shall appoint a board of not fewer than five (5) trustees nor more than seven (7) trustees for the library.

(2) The trustees shall be chosen from the citizens at large with reference to their fitness for the office.

(3) Before entering upon the duties of their office, the trustees shall make oath or affirmation before some judicial officer that they will discharge the duties enjoined upon them.

(b) The trustees shall receive no compensation for their services.

(c)(1) Two (2) trustees shall hold office for two (2) years, two (2) for four (4) years, and one (1) or more members for five (5) years from the January 1 following their appointment in each case. At the first meeting they shall cast lots for their respective terms, reporting the result to the council or governing body. All subsequent terms shall be for five (5) years.

(2) However, all trustees appointed after January 1, 1998, shall serve terms of five (5) years and until their successors are appointed and qualified. Any trustee may succeed himself or herself in office.

(d)(1) The removal of any trustee permanently from the city or his or her absence from four (4) consecutive meetings of the board without due explanation of absence shall render his or her office as trustee vacant.

(2) Vacancies on the board shall be filled by the mayor with the approval of the city council or governing body.

(e) Immediately after their appointment, the trustees shall meet and organize by the election of one (1) of their number as president and by the election of such other officers as they may deem necessary.

(f) The trustees shall make and adopt such bylaws, rules, and regulations for their own guidance as they see fit.

(g) The trustees shall meet once a calendar quarter, or more often if necessary, for the transaction of business.

(h) With the final approval of the city council or governing body of the municipality, the trustees shall have the authority:

(1) To negotiate and carry out all agreements between the city public library and the governing boards of the several city libraries and any counties participating in a joint city-county library or a regional library system; or

(2) To coordinate any and all library services for their city under an interlocal cooperation agreement.

History. Acts 1931, No. 177, §§ 2-4; Pope's Dig., §§ 9591-9593; Acts 1973, No. 56, § 1; A.S.A. 1947, §§ 19-3202 — 19-3204; Acts 1997, No. 204, § 1; 1997, No. 402, § 8; 2001, No. 630, § 1; 2001, No. 1515, § 1.

Amendments. The 2001 amendment, by No. 630, redesignated the former (c)(1)

as the present (c); added the last sentence in (c); and deleted (c)(2).

The 2001 amendment, by No. 1515, deleted "or has decided to provide library services to its citizens through participation in a library system" preceding "under this subchapter" in (a)(1); and substituted "the trustees" for "they" in (a)(3).

13-2-503. Powers of trustees — Librarian and staff.

(a)(1) All moneys received for library purposes, whether by taxation or otherwise, shall belong to and be designated as the library fund and shall be paid into the city treasury.

(2) The moneys shall be kept separate and apart from other funds of the city and drawn upon by the proper officers of the library upon the properly authenticated vouchers of the library board of trustees.

(b)(1) The board shall have exclusive control of the expenditures of all moneys collected to the credit of the library fund, and of the construction of any library building.

(2) The board shall have the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for library purposes.

(c)(1)(A) The board shall have the power to purchase or lease grounds or to purchase, lease, erect, and occupy appropriate buildings for the use of the library.

(B) When a building erected or purchased by the board is not adapted to its purpose or needs, the board may remodel or reconstruct the building.

(2) The board may also sell or otherwise dispose of any real or personal property that it deems no longer necessary or useful for library purposes.

(d)(1) The board shall have the power to appoint a librarian qualified by education, training, experience, and personality, who shall serve at the will of the board.

(2) The board shall have the power to appoint necessary assistants and other members of the staff, basing their appointment on the recommendation of the librarian.

(e) The board shall have the power to make necessary rules and regulations for administering the library and shall make provisions for representation at library conventions.

History. Acts 1931, No. 177, § 5; Pope's Dig., § 9594; A.S.A. 1947, § 19-3205. **Cross References.** Exemption from civil service commission act, § 14-49-301.

13-2-504. Surplus funds — Matching funds.

(a) The board of trustees of any city public library is authorized to use any surplus funds available in the operating or maintenance account of the library for matching federal or other funds available for financing necessary expansions or improvements of the library.

(b) Before using any of the funds for the purposes of this section, the board shall adopt a resolution setting forth the amount of the funds to be used, the purposes for which the funds are to be used, the amount of matching funds to be derived by the use of the funds, and the nature of the expansions or improvements to be made.

(c) The resolution shall include a declaration that the use of the funds will not jeopardize any existing program of the library and that the funds are not needed for any existing or anticipated maintenance or operating purpose of the library.

(d) The board, using funds as authorized in this section, is authorized to enter into contracts or agreements necessary to accomplish the purposes of this section.

(e) With respect to the purposes of this section, the board is authorized to accept gifts, grants, or donations of real or personal property from the federal government or from any person, firm, or corporation to be used for the purposes of the expansion or improvement of the library.

History. Acts 1965, No. 402, § 1; A.S.A. 1947, § 19-3205.1.

Publisher's Notes. Acts 1965, No. 402, § 1, is also codified as § 13-2-405.

13-2-505. Donations for library.

(a) Any person desiring to make donations of money, personal property, or real estate for the benefit of a library shall have the right to vest the title to the money or real estate so donated in the board of trustees of the library created under this subchapter.

(b) The money or real estate shall be held and controlled by the board, when accepted, according to the terms of the deed, gift, devise, or bequest of the property.

(c) As to the property, the board shall be considered trustees.

History. Acts 1931, No. 177, § 7; Pope's Dig., § 9596; A.S.A. 1947, § 19-3207.

13-2-506. Injuries to library property — Penalty.

(a) In addition to any penalties prescribed and notwithstanding any provisions to the contrary in the Arkansas Library Materials Security Law, § 13-2-801 et seq., the city council or governing body of a city shall have the power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon library grounds or property or injuring or failing to return any book, periodical, or property belonging to the library.

(b) The board of trustees of the library may refuse the use of the library to such offenders.

History. Acts 1931, No. 177, § 8; Pope's Dig., § 9597; A.S.A. 1947, § 19-3208; Acts 1997, No. 402, § 9.

13-2-507. Contracts for library services outside the city — Fees for special library services.

(a) The board of trustees of the library may extend the privilege and use of the library to persons residing outside the city upon such terms and conditions as the board may prescribe by its regulations or its policies.

(b) The board may also contract for library service or for the privilege and use of the library with the county quorum court, the municipal authorities of a neighboring city, town, or village, or school authorities.

(c) In addition, reasonable reimbursements may be collected by the city public library for providing any special library services beyond the

customary library services, provided they are determined in advance and in writing by the board.

History. Acts 1931, No. 177, § 6; Pope's Dig., § 9595; A.S.A. 1947, § 19-3206; Acts 1997, No. 402, § 10.

13-2-508. Joint municipal libraries — Joint city-county libraries.

(a) When any city council or governing body of a city of the first class shall have decided to establish and maintain a public library under the terms of this subchapter, the city board of trustees of the library appointed pursuant to this subchapter in fulfilling the purposes of this subchapter may contract with the municipal authorities of a neighboring city within this state or without this state if the city limits of the neighboring city so without this state extend to the state line of this state and are contiguous to the city limits of the city of the first class within this state, whereby a common library for the residents of both may be established and maintained by both cities.

(b) The contract shall provide for the division of the total cost of establishing, maintaining, and operating the library between the cities, even though the library is located without this state.

(c) However, the contract shall become effective only from and after its ratification by a majority of the elected members of the city council or the governing body of a city of the first class.

(d)(1) The city board of trustees, with the consent of its governing body of the city, and the county library board, with the consent of the county quorum court, or any group of municipal public libraries, and any combination of them, may contract with each other or among themselves to create, maintain, and support a joint city-county public library system or regional public library system or may enter into an interlocal cooperation agreement among themselves to coordinate public library services among the different jurisdictions.

(2) Such a contract or interlocal agreement shall contain terms, agreements, and conditions as may be agreed upon by the city board of trustees, the county library board of trustees, the county quorum court, and the board of trustees of the several municipalities.

(e) Any library or joint city-county library or other library system created under this section for coordination of library services when so established and operated shall be a public city library for all the intents and purposes of this subchapter and of Arkansas Constitution, Amendment 30.

(f) This section does not repeal any existing law and shall be cumulative to the provisions of §§ 13-2-501 — 13-2-503, 13-2-505 — 13-2-507, and 13-2-509.

History. Acts 1951, No. 36, §§ 1-3; A.S.A. 1947, §§ 19-3210, 19-3211, 19-3211n; Acts 1997, No. 402, § 11.

13-2-509. Trustees' report.

(a) At the end of each fiscal year, the board of trustees of the library shall present a report of the condition of the trust to the city council. This report shall be verified under oath by the secretary or some responsible person.

(b) It shall contain:

(1) An itemized statement of the various sums of money received from the library fund and other sources;

(2) A statement of the number of books and periodicals available for use and the number and character thereof circulated;

(3) A statement of the real and personal property received by devise, bequest, purchase, gift, or otherwise;

(4) A statement of the character of any extension of library service which may have been undertaken;

(5) A statement of the financial requirements of the library for the ensuing year; and

(6) Any other statistics, information, or suggestions that might be of interest.

(c) A copy of this report shall be filed with the State Library Board.

History. Acts 1931, No. 177, § 9;
Pope's Dig., § 9598; Acts 1951, No. 299,
§ 1; A.S.A. 1947, § 19-3209.

13-2-510. City and town library services.

(a)(1) Any city of the first class, city of the second class, or incorporated town in Arkansas may provide for library services for its citizens or may enter into agreements or contracts for library services with other political subdivisions or join with other political subdivisions to form regional library systems to provide library services for its citizens.

(2) The governing body of the city of the first class, city of the second class, or incorporated town may expend available municipal funds for the support, operation, and maintenance of any service, contract, agreement, or library system in which the municipality participates for library services for its citizens.

(b) The provisions of this subchapter shall not be construed to restrict or prohibit any cities of the first class, cities of the second class, or incorporated towns from entering into interlocal cooperation agreements with other cities, counties, or regional library systems to better coordinate the provision of services to its inhabitants.

History. Acts 1997, No. 402, § 12.

SUBCHAPTER 6 — INTERSTATE LIBRARY COMPACT**SECTION.**

13-2-601. Definition.

13-2-602. Compact enacted.

SECTION.

13-2-603. Compact administrators.

13-2-604. Notice of withdrawal.

SECTION.

13-2-605. Prerequisites for construction or maintenance of libraries.

SECTION.

13-2-606. Interstate library districts included.

Effective Dates. Acts 1967, No. 419, § 7: July 1, 1967.

13-2-601. Definition.

As used in this compact, "state library agency", with reference to this state, means the State Library Board.

History. Acts 1967, No. 419, § 3; A.S.A. 1947, § 6-312.

Publisher's Notes. Acts 1979, No. 489, § 9, provided in part, that all powers, functions, and duties of the Arkansas Li-

brary Commission with respect to the Interstate Library Compact should be performed by the State Library and the State Library Board.

13-2-602. Compact enacted.

The Interstate Library Compact is enacted into law and entered into by this state with all states legally joining therein and in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

ARTICLE I.

Policy and Purpose.

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states, and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provisions of library service on an interstate basis the most effective way of providing adequate and efficient service.

ARTICLE II.

Definitions.

As used in this compact: (a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

(b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

(c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

ARTICLE III.

Interstate Library Districts.

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain, and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities, and obligations thereto, and receive benefits therefrom as provided in any library agreement to which the agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance, or operation of library facilities or services by an interstate library district, the district shall have power to do any one or more of the following in accordance with the library agreement:

1. Undertake, administer, and participate in programs or arrangements for securing, lending, or servicing of books and other publications, any other materials suitable to be kept or made available by libraries, library equipment, or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.

2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and receive, utilize, and dispose of them.

3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

4. Employ professional, technical, clerical, and other personnel, and fix terms of employment, compensation, and other appropriate benefits; and where desirable, provide for the in-service training of personnel.

5. Sue and be sued in any court of competent jurisdiction.

6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

7. Construct, maintain, and operate a library, including any appropriate branches thereof.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

ARTICLE IV.

Interstate Library Districts, Governing Board.

(a) An interstate library district which establishes, maintains, or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

ARTICLE V.

State Library Agency Cooperation.

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing, and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services, or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district, and an agreement embodying any such program, service, or arrangement shall contain provision covering the subjects detailed in Article VI of this compact for interstate library agreements.

ARTICLE VI.

Library Agreements.

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter

into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements, or properties to which it is applicable.

2. Provide for the allocation of costs and other financial responsibilities.

3. Specify the respective rights, duties, obligations, and liabilities of the parties.

4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to the agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

ARTICLE VII.

Approval of Library Agreements.

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

ARTICLE VIII.

Other Laws Applicable.

Nothing in this compact or in any library agreement shall be construed to supersede, alter, or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposal of any property held in trust by a library agency in a manner contrary to the terms of such trust.

ARTICLE IX.

Appropriations and Aid.

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which the public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which the district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

ARTICLE X.

Compact Administrator.

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have any other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, the state may designate one or more deputy compact administrators in addition to its compact administrator.

ARTICLE XI.

Entry into Force and Withdrawal.

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by that state.

(b) This compact shall continue in force with respect to a party state and remain binding upon that state until six (6) months after the state has given notice to each other party state of the repeal thereof. The withdrawal shall not be construed to relieve any party to a library

agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

ARTICLE XII.

Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History. Acts 1967, No. 419, § 1;
A.S.A. 1947, § 6-310.

13-2-603. Compact administrators.

The Governor shall appoint an officer of this state who shall be the compact administrator pursuant to Article X of the compact. The Governor shall also appoint one (1) or more deputy compact administrators pursuant to that article.

History. Acts 1967, No. 419, § 5;
A.S.A. 1947, § 6-314.

13-2-604. Notice of withdrawal.

In the event of withdrawal from the compact, the Governor shall send and receive any notices required by Article XI(b) of the compact.

History. Acts 1967, No. 419, § 6;
A.S.A. 1947, § 6-315.

13-2-605. Prerequisites for construction or maintenance of libraries.

No county, city, town, or combination thereof acting as a regional library district of this state shall be party to a library agreement which provides for the construction or maintenance of a library pursuant to Article III, subdivision (c)7 of the compact, nor pledge its credit in support of such a library, or contribute to the capital financing thereof, except:

(1) After compliance with the Arkansas Constitution and any laws applicable to the county, city, town, or combination thereof relating to or governing capital outlays and the pledging of credit; and

(2) After submitting the plan to the State Library Board for approval.

History. Acts 1967, No. 419, § 2;
A.S.A. 1947, § 6-311.

13-2-606. Interstate library districts included.

(a) An interstate library district lying partly within this state may claim to be entitled to receive state aid in support of its functions to the same extent and in the same manner as such functions are eligible for support when carried on by entities wholly within this state.

(b) For the purposes of computing and apportioning state aid to an interstate library district, this state will consider that portion of the area which lies within this state as an independent entity for the performance of the aided function or functions and compute and apportion the aid accordingly.

(c) Subject to any applicable laws of this state, such a district also may apply for and be entitled to receive any federal aid for which it may be eligible.

History. Acts 1967, No. 419, § 4;
A.S.A. 1947, § 6-313.

SUBCHAPTER 7 — CONFIDENTIALITY OF PATRONS' RECORDS

SECTION.

13-2-701. Definitions.

13-2-702. Penalty.

13-2-703. Disclosure prohibited.

SECTION.

13-2-704. Disclosure permitted.

13-2-705. Construction — Statistics.

13-2-706. Use of information in evidence.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, The Arkansas Freedom of Information Act: Time for a Change, 44 Ark. L. Rev. 535.

13-2-701. Definitions.

As used in this subchapter:

(a) "Confidential library records" means documents or information in any format retained in a library that identify a patron as having requested, used, or obtained specific materials, including, but not limited to, circulation of library books, materials, computer database searches, interlibrary loan transactions, reference queries, patent searches, requests for photocopies of library materials, title reserve requests, or the use of audiovisual materials, films, or records; and

(b) “Patron” means any individual who requests, uses, or receives services, books, or other materials from a library.

History. Acts 1989, No. 903, § 1.

13-2-702. Penalty.

(a) Any person who knowingly violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200) or thirty (30) days in jail, or both, or a sentence of appropriate public service or education, or both.

(b) No liability shall result from any lawful disclosure permitted by this subchapter.

(c) No action may be brought under this subchapter unless the action is begun within two (2) years from the date of the act complained of or the date of discovery.

History. Acts 1989, No. 903, § 2.

13-2-703. Disclosure prohibited.

(a) Library records which contain names or other personally identifying details regarding the patrons of public, school, academic, and special libraries and library systems supported in whole or in part by public funds shall be confidential and shall not be disclosed except as permitted by this subchapter.

(b) Public libraries shall use an automated or Gaylord-type circulation system that does not identify a patron with circulated materials after materials are returned.

History. Acts 1989, No. 903, § 2.

13-2-704. Disclosure permitted.

A library may disclose personally identifiable information concerning any patron to:

- (1) The patron;
- (2) Any person with the informed, written consent of the patron given at the time the disclosure is sought;
- (3) A law enforcement agency or civil court, pursuant to a search warrant; or
- (4) Any person, including, but not limited to, the patron, who has received an automated telephone notification or other electronic communication for overdue materials or reserve materials if the person making the request can verify the telephone number or e-mail address to which the notice was sent.

History. Acts 1989, No. 903, § 2; 2003, No. 677, § 1.

Amendments. The 2003 amendment added (4) and made related changes.

13-2-705. Construction — Statistics.

(a) No provision of this subchapter shall be construed to prohibit any library or any business operating jointly with a library from disclosing information for the purpose of:

- (1) Collecting overdue books, documents, films, or other items or materials owned or otherwise belonging to the library;
- (2) Collecting fines on overdue books, documents, films, or other items or materials; and
- (3) Contacting its patrons by telephone, mail service, or other medium for the purpose of notifying, informing, and educating patrons or otherwise promoting the legitimate programs, policies, and other interests of the library.

(b) Aggregate statistics shown from registration and circulation records with all personal identification removed may be released or used by a library or library system for research or planning purposes.

History. Acts 1989, No. 903, § 2; 1995, No. 612, § 1.

13-2-706. Use of information in evidence.

Personally identifiable information obtained in any manner other than as provided in this subchapter shall not be received in evidence in any trial, hearing, arbitration, or other proceeding before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state or political subdivision of the state.

History. Acts 1989, No. 903, § 2.

SUBCHAPTER 8 — ARKANSAS LIBRARY MATERIALS SECURITY LAW

SECTION.	SECTION.
13-2-801. Short title.	13-2-805. Reasonable detention and questioning to determine whether offense was committed.
13-2-802. Definitions.	
13-2-803. Unauthorized removal or willful mutilation of library materials.	13-2-806. Relation with other criminal or civil proceedings.
13-2-804. Applicability.	

Cross References. State records management and archives, § 13-4-101 et seq.

13-2-801. Short title.

This subchapter shall be known and may be cited as the Arkansas Library Materials Security Law.

History. Acts 1995, No. 906, § 1.

13-2-802. Definitions.

For the purposes of this subchapter:

(1) "Library materials" means books, manuscripts, letters, newspapers, court records, films, microfilms, tape recordings, phonograph records, lithographs, prints, photographs, or any other written or printed documents, graphic material of any nature, and other personal property which is the property or in the custody of or entrusted to a public or private library, museum, archive, or other depository;

(2) "Mutilate" means, in addition to its commonly accepted definition, the willful removal or separation of constituent parts of an item of library materials, causing library materials to be exposed to damage; and

(3) "Without authorization" means contrary to rules which set forth policies governing access to library materials and include eligibility for library patronage and lending procedures.

History. Acts 1995, No. 906, § 2.

13-2-803. Unauthorized removal or willful mutilation of library materials.

(a)(1) It shall be unlawful for any person to remove library materials without authorization from the premises wherein such materials are maintained or to retain possession of library materials without authorization.

(2) It shall be unlawful for any person to willfully mutilate library materials.

(b)(1) A violation of this section is a Class B felony if the value of the property is two thousand five hundred dollars (\$2,500) or more.

(2) A violation of this section is a Class C felony if the value of the property is less than two thousand five hundred dollars (\$2,500) but more than five hundred dollars (\$500).

(3) A violation of this section is a Class A misdemeanor if the value of the property is five hundred dollars (\$500) or less.

(c) However, before a charge of retaining possession of library materials without authorization shall be filed against any person, the library shall send written notice by ordinary mail addressed to the last known address of the person who checked out or otherwise removed the books or materials from the library, notifying the person that:

(1) If the books or materials are not returned to the library within thirty (30) days from the date of the notice, charges will be filed against the person under the provisions of this section; and

(2) Upon conviction, the person may be fined in an amount as provided in this section.

History. Acts 1995, No. 906, § 3.

Cross References. Fines, § 5-4-201.

Imprisonment, § 5-4-401.

13-2-804. Applicability.

This subchapter shall apply to all libraries, museums, archives, and other depositories operated by an agency, board, commission, department, or officer of the State of Arkansas, by private persons, societies, or organizations, or by agencies or officers of municipalities, counties, schools, and institutions of higher learning; or of any other political subdivisions of the State of Arkansas.

History. Acts 1995, No. 906, § 4.

13-2-805. Reasonable detention and questioning to determine whether offense was committed.

(a) If a person employed by a library or a person charged with the supervision thereof has reason to believe that a person has committed or has attempted to commit any offense under this subchapter or that the person has concealed any library material upon his or her person or within his or her belongings, then the person may be detained and questioned in a reasonable manner for the purpose of ascertaining whether or not an offense has been committed.

(b) The detention and questioning shall not render the employee civilly liable for slander, false arrest, false imprisonment, malicious prosecution, unlawful detention, or otherwise, if the library employee or person charged with the supervision of the library acts in good faith and in a reasonable manner.

(c) For the purpose of ascertaining whether or not an offense has been committed, libraries, museums, archives, and other depositories may establish policies that require persons entering and exiting the premises wherein library materials are maintained to open and disclose the contents of any bags, purses, briefcases, and other containers which are being carried by or are in the possession of the persons.

History. Acts 1995, No. 906, § 6; 1997, No. 358, § 1.

13-2-806. Relation with other criminal or civil proceedings.

(a) The provisions of this subchapter are supplemental to other criminal statutes.

(b) An acquittal or conviction obtained under this subchapter shall not be a bar to civil proceedings or actions arising from the same incident.

History. Acts 1995, No. 906, § 5.

SUBCHAPTER 9 — REGIONAL LIBRARY SYSTEM LAW**SECTION.**

13-2-901. Title.

13-2-902. Purpose.

SECTION.

13-2-903. Creation of a regional library system.

SECTION.

13-2-904. Board of trustees.
13-2-905. Powers and duties.
13-2-906. Annual reports.

SECTION.

13-2-907. Contracts for library services
and with other libraries.

13-2-901. Title.

This subchapter may be referred to and cited as the “Regional Library System Law”.

History. Acts 1997, No. 402, § 13.

13-2-902. Purpose.

(a) In order to better coordinate the services of libraries and library systems in different counties, as is permitted under both Arkansas Constitution, Amendment 30, and Arkansas Constitution, Amendment 38, when city and county public libraries are formed in the various counties of the State of Arkansas and taxes are levied in those cities and counties for the purpose of maintaining and operating a public library or library system or when counties, cities, or towns form public libraries or provide library services for their citizens without levying specific taxes, the city and county public libraries may organize themselves into regional library systems in accordance with this subchapter.

(b)(1) The provisions of this subchapter for creating a regional library system in Arkansas shall be supplemental to and in addition to the present laws relating to the powers of counties and municipalities to contract for services and to enter into interlocal cooperation agreements under the Interlocal Cooperation Act, § 25-20-101 et seq.

(2) This subchapter shall not be construed to prohibit a county or municipality from joining with other counties or cities to create other regional or multijurisdictional arrangements to provide library services for their citizens.

History. Acts 1997, No. 402, § 13.

13-2-903. Creation of a regional library system.

(a) Any two (2) or more municipalities, any two (2) or more counties, or any one (1) or more municipalities together with any one (1) or more counties are authorized to create and become members of a regional library system as prescribed in this subchapter.

(b) Upon the recommendation by the city library board of trustees or the county library board, the governing body of each municipality and county desiring to create and become a member of a system may by ordinance determine that it is in the best interest of the municipality or county in accomplishing the purposes of this subchapter to create and become a member of a system to better coordinate the services of libraries of different cities and counties as is permitted under Arkansas Constitution, Amendment 30, § 4, and Arkansas Constitution, Amend-

ment 38, § 4, or as is otherwise permitted under interlocal cooperation agreements.

(c) The ordinance shall:

(1) Specify the desire that a system be created as a public body and a body corporate and politic under this subchapter;

(2) Set forth the names of the municipalities or counties, or both, which are proposed to be initial members of the system;

(3) Set forth the name which is proposed for the system;

(4) Specify the powers to be granted to the system and its board of trustees and any limitations on the exercise of the powers granted, including limitations on the system's area of operations and the use of system funds and facilities;

(5) Specify the number of trustees on the board, the length of terms, and the voting rights of each trustee;

(6) Establish the proportion of financial assistance and support to be apportioned among the participating jurisdictions in the system; and

(7) Set forth the terms and conditions for the withdrawal from the system and the division of any system funds or property.

(d)(1) The ordinance shall be signed by the mayor of each municipality and the county judge of each county, attested by the respective clerks, and sent to the Secretary of State and to the Arkansas State Library. The Secretary of State shall receive and file it and shall record it in an appropriate book of record in his or her office.

(2) When the ordinance has been made, filed, and recorded as provided in this subchapter, the system shall constitute a public body and a body corporate and politic under the name proposed in the ordinance.

(e)(1) Any ordinance filed with the Secretary of State pursuant to the provisions of this section may be amended from time to time, and any other municipality or county may become a new member in the system with the consent of the members of the system evidenced by ordinances of their governing bodies.

(2) The amendment shall be signed and filed with the Secretary of State and the Arkansas State Library in the manner provided in this section.

History. Acts 1997, No. 402, § 13.

13-2-904. Board of trustees.

(a)(1)(A) The management and control of a regional library system shall be vested in a board of trustees, who shall be appointed by the county or municipal library boards from among the membership of the county or municipal library boards.

(B) In the absence of the county or municipal library board, the governing body of the county or municipality shall appoint the trustees to the regional library board.

(2) The number of trustees shall be agreed upon by the governing bodies of the municipality or municipalities and with the county

quorum courts which have agreed with each other or among themselves to create, maintain, and support the system.

(b) Each trustee shall be a resident and qualified elector of the municipality or county represented on the regional library board.

(c)(1) Vacancies on the regional library board shall be filled in the same manner in which members of the regional library board were first appointed.

(2) Any trustee who shall not attend three (3) consecutive meetings of the regional library board without reasonable explanation shall be subject to removal by the municipal or county body which is the appointing authority.

(d)(1) A trustee shall not receive salary or other compensation for his or her service.

(2) However, a trustee may be reimbursed for necessary travel and mileage expenses if reimbursements are adopted as a policy by the regional library board.

History. Acts 1997, No. 402, § 13.

13-2-905. Powers and duties.

(a)(1) Immediately after their initial appointment, the board of trustees of the regional library system shall meet and elect the officers as they deem necessary.

(2) A quorum of this board shall be a majority of the total number of members.

(3) The board shall:

(A) Adopt such bylaws, rules and regulations, and policies for their own guidance, including personnel policies, and for the governing of the regional library system as they deem reasonable and necessary;

(B) Meet at least one (1) time in each calendar quarter;

(C) Have the custody and supervision of all property of the regional library system, including the rooms or buildings constructed, leased, or set apart for the system;

(D) Employ a system director, who shall serve at the will of the board, which shall prescribe his or her duties and fix his or her compensation;

(E) Have exclusive control of the finances of the system;

(F) Cause an annual audit to be performed in accordance with Arkansas law for audits of local government entities;

(G) Be responsible for any fine or fee money for special library services and accept any grants, gifts of money, or property for use of the system and use it for purposes as the board deem reasonable and necessary;

(H) May purchase and dispose of equipment as provided in Arkansas law for county government purchase and disposition of county government property;

(I) Develop and enforce policies and penalties for persons injuring library property and materials or failing to return any book, periodical, or property belonging to the system. The board may refuse the use of the library to those offenders; and

(J) Do all other acts necessary for the orderly and efficient management and control of the system.

(b) No expenditure made or contracted by the board shall be binding on any participating municipalities or counties so as to require any payment in excess of funds made available for library purposes under this subchapter.

(c)(1) There shall be one (1) regional library director for each system.

(2) The director shall have a master's degree from an accredited American Library Association program.

(3) The system director shall administer and establish procedures in accordance with policies established by the board.

(4) The director's duties shall include:

(A) Employment and supervision of system staff;

(B) Financial and statistical management of the system, including initial preparation of the annual budget;

(C) Reporting to the board on system operations and services; and

(D) Other acts necessary for the orderly and efficient administration of the system.

(d)(1) If not provided for by the system or by one (1) of the participating jurisdictions of the system, all eligible employees of a system shall be entitled to comparable fringe benefit and retirement benefit coverage as are other county employees in the headquarters county.

(2) Costs for these benefits shall be apportioned among the participating municipalities and counties of the system.

(e)(1) On a monthly basis each county and municipality supporting a system shall transmit appropriated amounts of tax revenues and other appropriated funds to the system pursuant to the interlocal agreement, the regional library ordinance, or the contract.

(2) All regional funds shall be deposited in one (1) or more public depositories previously selected by the board of the system.

(3)(A) All funds shall be placed in the depository or depositories selected by the board in the same manner as provided by law for the selection of county depositories.

(B) The depository shall place on deposit with the director the same securities as are required by law for county deposits.

(4) The board shall, by appropriate order recorded in its minutes, authorize the director to expend system funds for lawful purposes only and in accordance with its budget.

(f)(1) The board shall have the power to purchase or lease grounds or to purchase, lease, erect, and occupy appropriate buildings for the use of all public libraries in the system. When a building erected or purchased by the board is not adapted to its purpose or needs, the board may remodel or reconstruct the building.

(2) The board may also sell or otherwise dispose of any real or personal property that it deems no longer necessary or useful for library purposes.

13-2-906. Annual reports.

At the end of each calendar year, the board of trustees of every regional library system shall make a report to the governing body in the county or counties or municipality or municipalities wherein the board serves, showing the condition of the system during the year and other statistics and information as the board deems of public interest.

History. Acts 1997, No. 402, § 13.

13-2-907. Contracts for library services and with other libraries.

(a) Regional library systems are authorized to contract with other regional libraries, municipal libraries, or county public libraries or with library authorities of any college or university or any privately organized or endowed library, whereby common library branches or buildings or joint library services for the residents or patrons of the participating jurisdictions may be established and maintained in joint effort.

(b) The contract shall provide for the division of any cost of establishing, maintaining, and operating the library and library services between the system and the other entity, even though the entity may be located without this state.

(c) The contract shall become effective only from and after its ratification by a majority of the members of the board of trustees of the regional library system.

History. Acts 1997, No. 402, § 13.

SUBCHAPTER 10 — ARKANSAS DIGITAL LIBRARY ACT**SECTION.**

13-2-1001. Title.

13-2-1002. Creation.

13-2-1001. Title.

This subchapter may be referred to as the Arkansas Digital Library Act.

History. Acts 2003, No. 1810, § 1.

13-2-1002. Creation.

(a)(1) The Department of Higher Education and the Arkansas State Library shall develop a digitized collection of information that includes information that is in the public domain, cleared for public distribution over the Internet, and to which students of public postsecondary schools in Arkansas have access.

(2) The digitized information under this subchapter shall be available for public access in at least one (1) location in each Arkansas county.

(b)(1) The department and the library shall develop criteria regarding the:

- (A) Selection of materials to be digitized;
- (B) Need for public access; and
- (C) Means of cataloging or indexing the materials and digitizing them.

(2) Materials to be digitized may include:

- (A) Print documents;
- (B) Texts;
- (C) Manuscripts;
- (D) Photographs;
- (E) Art reproductions;
- (F) Postcards;
- (G) Illustrations;
- (H) Sound;
- (I) Film; and
- (J) Video.

(c) The department shall make grants under this subchapter to assist public postsecondary institutions and other public or private entities in:

(1) Selecting and digitizing information; and

(2) Developing and providing access to the digital collection in at least one (1) location in each Arkansas county.

(d)(1) Each postsecondary public institution in Arkansas shall cooperate with the department in developing the digitized collection under this subchapter.

(2) Each postsecondary public institution and any entity receiving a grant under this subchapter shall develop a plan to inform the public regarding the use of the resources made available under this subchapter.

(3) Funds made available under this subchapter may be used by the receiving entities to obtain matching funds from federal programs.

History. Acts 2003, No. 1810, § 2.

CHAPTER 3

HISTORY COMMISSIONS

SUBCHAPTER.

1. ARKANSAS HISTORY COMMISSION.
2. ARKANSAS BLACK HISTORY ADVISORY COMMITTEE.

A.C.R.C. Notes. References to “this subchapter 2 which was enacted subsequently” in subchapter 1 may not apply to

Cross References. Cooperation with Bureau of War Records, § 12-61-123.

County museum commissions, agreements with, § 13-5-503.

Revoked charters of inactive towns or cities, § 14-39-102.

State library, duties, § 13-2-207.

Effective Dates. Acts 1911, No. 355, § 7: May 30, 1911. Emergency declared.

Acts 1963, No. 207, § 9: Mar. 8, 1963. Emergency clause provided: "It has been found that, under existing law, appointments of the members of the commission are not subject to the approval of the Senate as in the instance of a large majority of the other important boards and commissions of the state; that such ap-

pointments should be subject to the approval of the Senate; and that Section 2 of this act provides that the Governor's appointments shall be by and with the advice and consent of the Senate, thereby making it necessary for this act to take effect immediately in order that the Governor may appoint, and the Senate confirm the appointment of, the members of the commission before adjournment of the General Assembly. Therefore an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force on and after its passage and approval."

SUBCHAPTER 1 — ARKANSAS HISTORY COMMISSION

SECTION.

13-3-101. Creation — Purpose.

13-3-102. Members.

13-3-103. Meetings — Records.

13-3-104. Powers and duties.

13-3-105. Delegation to State Historian.

13-3-106. State Historian — Powers and duties.

SECTION.

13-3-107. Preservation of public officials' records.

13-3-108. Preservation of state publications.

A.C.R.C. Notes. Due to the addition of Subchapter 2 of this chapter by Acts 1991, No. 1233, the preexisting provisions of this chapter have been designated as Subchapter 1.

Effective Dates. Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act

1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-3-101. Creation — Purpose.

(a) The Arkansas History Commission is created and established at the seat of government of this state for the purposes of:

- (1) Keeping and caring for the official archives of this state;
- (2) Collecting materials bearing on the history of Arkansas from the earliest times;

(3) Copying and editing official records and other historical materials;

(4) Encouraging historical work and research; and

(5) Performing work in relation to the foregoing.

(b) The commission and the Arkansas Building Authority shall determine the facility needs of the commission.

(c) The authority may locate and negotiate an appropriate facility for the commission, but the commission shall have final approval of the facility's location.

History. Acts 1911, No. 355, §§ 1, 2; C. & M. Dig., §§ 5514, 5515; Pope's Dig., §§ 12236, 12237; Acts 1963, No. 207, §§ 1, 2; 1985, No. 933, § 1; A.S.A. 1947, §§ 6-201, 6-202; Acts 2003, No. 611, § 1.

Publisher's Notes. The Arkansas History Commission and its functions, powers, and duties were transferred to the Department of Parks and Tourism by a type 1 transfer pursuant to Acts 1971, No. 38, § 7.

Acts 1947, No. 170, § 5, provided that §§ 25-18-301 — 25-18-304, designating

the Mullins Library of the University of Arkansas at Fayetteville as an official state depository for public documents, were cumulative to and did not repeal this subchapter.

Section 13-2-202 provides that nothing in § 13-2-201 et seq. affects the powers and duties of the Arkansas History Commission.

Amendments. The 2003 amendment added the subdivision designations and made stylistic changes in (a); rewrote (b); and added (c).

13-3-102. Members.

(a) The Arkansas History Commission shall consist of seven (7) members, residents and electors of this state, to be appointed by the Governor by and with the advice and consent of the Senate. Each congressional district shall be represented by membership on the commission.

(b) The term of office of each member of the commission shall commence on January 15 following the expiration date of his or her predecessor's term and shall end on January 14 of the seventh year following the year in which the term commenced.

(c) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, and to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate when it is next in session.

(d) Before entering upon his or her duties, each member of the commission shall take and subscribe, and file in the office of the Secretary of State, an oath to support the Constitution of the United States and the Constitution of the State of Arkansas and to faithfully perform the duties of the office upon which he or she is about to enter.

(e) From time to time, the commission shall select from its membership a chair and a vicechair.

(f) Members of the commission shall receive no pay for their services but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; 1985, No. 933, § 1; 1985, No. 934, § 1; A.S.A. 1947, § 6-202; Acts 1997, No. 250, § 74.

Publisher's Notes. The terms of the members of the Arkansas History Commission are arranged so that one term expires on January 14 of every year.

13-3-103. Meetings — Records.

(a) The Arkansas History Commission shall meet at such times and places as in each instance may suit the commission's convenience, and all meetings shall be open to the public.

(b) The commission shall adopt, and may modify, rules for the conduct of its business. The commission shall keep a record of its transactions, findings, and determinations, which record shall be public.

(c) The rules shall provide for regular meetings and for special meetings at the call of the chair or the vicechair if he or she is, for any reason, the acting chair, either at his or her own instance, or upon the written request of at least four (4) members.

(d) The State Historian provided for in this chapter shall be ex officio secretary of the commission but shall have no vote on matters coming before it.

(e) A quorum shall consist of not less than four (4) members present at any regular or special meeting. The affirmative vote of that number shall be necessary for the disposition of any business.

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; A.S.A. 1947, § 6-202.

13-3-104. Powers and duties.

(a) All records, papers, archives, and historical material at any time in the possession of the Arkansas History Commission, excepting such as it may have on loan, shall be and remain the property of the State of Arkansas. It shall also be the function, power, and duty of the commission to:

(1) Receive, classify, and preserve, through the making of photographic copies or by other means, all official archives of Arkansas, its counties, its municipalities, and its other subdivisions, which may come either permanently or temporarily into the commission's custody;

(2) Collect, classify, and preserve, through the making of photographic copies or by other means, all records, manuscripts, maps, diaries, letters, war service records, journals, and papers of historical value, pertaining to Arkansas and Arkansans;

(3) Collect and preserve, through the making of photographic copies or by other means, all files of such Arkansas newspapers as it may acquire either permanently or temporarily;

(4) Collect and preserve portraits, photographs, sketches, drawings, and other likenesses of eminent Arkansans, historic places, houses, buildings, and scenes in Arkansas;

(5) Select and publish any state papers and other source material of Arkansas history it shall deem appropriate and its funds will permit;

(6) Build up and maintain at its headquarters a reference library of the source material of Arkansas history;

(7) Establish and maintain at its headquarters any permanent or temporary displays of historic relics and other articles and objects of historic interest, which it shall determine to be desirable or feasible; and

(8) Ascertain the location of battlefields within the state on which battles were fought in the War Between the States, prepare data as to the troops employed in such engagements, ascertain which battlefields should be marked by suitable markers, accept designs for the markers, and, within the limit of funds available for the purpose, acquire and place markers in suitable positions on those battlefields, subject, in each instance, to the approval of the owners of the land.

(b) Without limiting the generality of the other provisions of this chapter by reason of the following enumeration, the commission shall have the authority to:

(1) Adopt and use a seal;

(2) Destroy, exchange, or otherwise dispose of any materials in its possession, except borrowed materials, which it may find to be worthless or surplus to its needs;

(3)(A) Establish and make reasonable charges for furnishing photographic and certified copies of materials in its possession.

(B) The funds so collected shall be deposited to the credit of the commission's account in a bank and from time to time withdrawn therefrom for the purchase of photographic equipment and supplies, to pay for processing films, and for related purposes;

(4) Receive and expend any moneys arising from grants, contributions, or gratuities, receive bequests or donations of real or personal property, convert into money any property which cannot be used in the form received, and expend the money for any of the functions performable by it. The Chief Fiscal Officer of the State shall prescribe rules for the handling of these moneys;

(5) Cooperate with, and receive the cooperation of, historical associations and other nonprofit organizations devoted to the history of this state;

(6) Contract and be contracted with; and

(7) Take such other action, not inconsistent with law, as it shall deem necessary in the performance of any of its functions.

History. Acts 1911, No. 355, §§ 3, 4; 1963, No. 207, §§ 3, 4; A.S.A. 1947, §§ 6-203, 6-204.

13-3-105. Delegation to State Historian.

By resolution duly adopted, the Arkansas History Commission may delegate to the State Historian any of the powers and duties vested in

or imposed upon it by law. These delegated powers and duties may be exercised by the State Historian in the name of the commission.

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; A.S.A. 1947, § 6-202.

13-3-106. State Historian — Powers and duties.

(a) The State Historian shall be elected by and serve at the pleasure of the Arkansas History Commission and shall devote his or her entire time to the duties of his or her employment.

(b)(1) The person elected shall have been granted a doctoral degree in the field of history by a duly accredited institution of higher education, or the commission may elect a person who, as determined by the commission, has the equivalent of a doctoral degree.

(2) This determination shall be based upon the academic background of the person, his or her editorial ability, his or her knowledge of and interest in history, and his or her experience in that field.

(c) The compensation of the State Historian shall be fixed by the commission within the limit provided by law.

(d) The State Historian shall be custodian of all property of the commission and of the office and archives space, and he or she shall be, ex officio, the disbursing agent of all funds available for the commission's use.

(e)(1)(A) The historian shall furnish bond to the state, with a corporate surety thereon, in the penal sum of five thousand dollars (\$5,000).

(B) This bond shall be conditioned that he or she will faithfully perform his or her duties of employment and properly account for all funds received and disbursed by him or her.

(2) The historian shall not be required to furnish additional bond as disbursing agent, nor shall he or she be required to furnish additional bond as disbursing agent of other appropriations for which he or she may be designated disbursing agent under or pursuant to any law of this state unless so directed by the General Assembly.

(3) The bond so furnished shall be filed with the Secretary of State.

(4) An executed counterpart of the bond shall be filed with the Auditor of State.

(f) The State Historian shall be charged with the duty of administering the provisions of this chapter and the rules, regulations, and orders established under this chapter.

(g) The State Historian shall employ such personnel as may be authorized by law and fix their compensation within the limits provided by law, subject in both respects, however, to approval by the commission.

History. Acts 1911, No. 355, § 2; C. & M. Dig., § 5515; Pope's Dig., § 12237; Acts 1963, No. 207, § 2; 1981, No. 639, § 1; A.S.A. 1947, § 6-202.

A.C.R.C. Notes. The operation of subsection (e) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and

employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

13-3-107. Preservation of public officials' records.

(a)(1) At his or her discretion, any state, county, or other official is authorized and empowered to turn over to the Arkansas History Commission, for permanent preservation, any official books, records, documents, original papers, and newspaper files not in current use in his or her office.

(2) When so surrendered, copies from the state, county, or other official's office shall be made and certified by the secretary of the commission upon the application of any person interested, which certification shall have the force and effect as if made by the officer originally in the custody of them, and for which the same fee shall be charged to be collected in advance.

(b)(1) All officers of this state and of its political subdivisions, as requested by the commission, shall make available for copying or photographing such of their records and other materials as the commission shall deem advisable for historical purposes.

(2) Before destroying or discarding outdated records, other than ephemeral materials, each officer shall advise the commission, in writing, of his or her intentions, and records that have a historical value, as determined by the commission, shall be given to the commission.

History. Acts 1911, No. 355, § 5; C. & M. Dig., § 5519; Pope's Dig., § 12241; Acts 1963, No. 207, § 5; A.S.A. 1947, § 6-207.

13-3-108. Preservation of state publications.

Two (2) copies of every publication of the State of Arkansas shall be placed at the disposal of the Arkansas History Commission and shall be preserved, by photographic or other means, in the archives of the commission.

History. Acts 1911, No. 355, § 6; C. & M. Dig., § 5520; Pope's Dig., § 12242; Acts 1963, No. 207, § 6; A.S.A. 1947, § 6-208.

SUBCHAPTER 2 — ARKANSAS BLACK HISTORY ADVISORY COMMITTEE

SECTION.	SECTION.
13-3-201. Purpose.	13-3-205. State Historian's duties — Location of committee.
13-3-202. Members.	13-3-206. Historical contributions by the black race — Arkansas history courses.
13-3-203. Meetings — Rules and bylaws — Secretary.	
13-3-204. Duties — Records, papers, archives, and historical materials property of state.	

A.C.R.C. Notes. References to “this chapter” in subchapter 1 may not apply to this subchapter which was enacted subsequently.

Effective Dates. Acts 1997, No. 250, § 258; Feb. 24, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup

act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

13-3-201. Purpose.

The Arkansas Black History Advisory Committee is created and established at the seat of government of this state for the purpose of:

(1) Advising the Arkansas History Commission with respect to gathering, developing, and keeping the history of a segment of Arkansas society whose history has been overlooked and forgotten and has been simply neglected because of a lack of concern;

(2) Collecting materials bearing on the history of black Arkansans from the earliest times;

(3) Encouraging historical work and research in the background of black Arkansans to help the young citizens of the state to appreciate their heritage; and

(4) Performing work in relation to the history of black Arkansans.

History. Acts 1991, No. 1233, § 1; 2001, No. 1553, § 22.

Amendments. The 2001 amendment rewrote the section.

13-3-202. Members.

(a) The Arkansas Black History Advisory Committee shall consist of seven (7) members who shall be residents and electors of this state. The members shall be appointed by the Governor, by and with the advice and consent of the Senate.

(b) The term of office of each member of the committee shall commence on January 15 following the expiration date of his predecessor's term and shall end on January 14 of the seventh year following the year in which the term commenced.

(c) The membership of the committee shall be made up of persons who are citizens of the state at large and who have demonstrated an interest in the collection, recordation, preservation, and development of the history of black Arkansans.

(d) Any vacancies arising in the membership of the committee for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Gover-

nor, and to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate when it is next in session.

(e) The committee shall select from its membership a chair and a vicechair.

(f) Members of the committee may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1991, No. 1233, § 2; 1995, No. 980, § 1; 1995, No. 1296, § 43; 1997, No. 250, § 75.

Publisher's Notes. Acts 1991, No. 1233, § 2, provided, in part, that except for the initial members of the committee,

each member shall serve a seven (7) year term. Of the initial members, their terms will be staggered between one (1) year and seven (7) years, determined by lot at the committee's first meeting.

13-3-203. Meetings — Rules and bylaws — Secretary.

(a) The Arkansas Black History Advisory Committee shall meet at such times and places as in each instance may suit the committee's convenience and its purposes, and all meetings shall be open to the public.

(b)(1) The committee shall adopt and may modify rules and bylaws for the conduct of its business, subject to the approval of the Arkansas History Commission.

(2) The committee shall keep a record of its transactions, findings, and determinations, which record shall be public.

(c) The rules shall provide for regular meetings and for special meetings at the call of the chair or, in his or her absence or incapacity, the vicechair, or upon written request of at least four (4) members.

(d) The State Historian shall be ex officio secretary of the committee, but shall have no vote on matters coming before it.

(e) A quorum of the committee shall consist of not less than four (4) members present at any regular or special meeting. The affirmative vote of that number shall be necessary for the disposition of any business.

History. Acts 1991, No. 1233, § 3.

13-3-204. Duties — Records, papers, archives, and historical materials property of state.

(a) It shall be the function, power, and duty of the Arkansas Black History Advisory Committee to assist the Arkansas History Commission to:

(1) Collect, classify, and preserve, through the making of photographic copies or by other means, records, manuscripts, maps, diaries, letters, war service records, journals, and papers of historical value, pertaining to the black race in Arkansas and black Arkansans;

(2) Collect and preserve portraits, photographs, sketches, drawings, and other likenesses of eminent black Arkansans, historic places, houses, buildings, and scenes involving the black race in Arkansas;

(3) Select and publish any papers, research, and other source material on the contribution of the black race in Arkansas history which it shall deem appropriate and funds will permit;

(4) Build up and maintain a reference library of the source material on the black race in Arkansas history; and

(5) Cooperate with, and receive the cooperation of, any historical associations or any black historical associations and other nonprofit organizations devoted to the history or the black history of this state.

(b) All records, papers, archives, and historical material at any time in the possession of the commission, excepting such as it may have on loan, shall be and remain the property of the State of Arkansas.

History. Acts 1991, No. 1233, § 4.

13-3-205. State Historian's duties — Location of committee.

(a)(1) The State Historian shall assist the Arkansas Black History Advisory Committee in the performance of its duties and shall be the custodian of all property and reference and source materials of the committee.

(2) The State Historian shall be charged with the duty of administering this subchapter.

(b) The offices of the committee and the archives of its records shall be located with those of the Arkansas History Commission.

History. Acts 1991, No. 1233, §§ 1, 6; deleted "in the One Capitol Mall Building, State Capitol, Little Rock" at the end of 2003, No. 611, § 2.

Amendments. The 2003 amendment (b).

13-3-206. Historical contributions by the black race — Arkansas history courses.

(a) The Arkansas Black History Advisory Committee and the Director of General Education or his or her designee shall cooperate with each other to develop the materials for a program of historical contributions by the black race in Arkansas for inclusion in the curriculum segment of the Arkansas history required to be instructed in § 6-16-124.

(b) The director shall ensure that these materials are reproduced and sent to all school districts in the state as a resource for inclusion in the Arkansas history courses.

History. Acts 1991, No. 1233, § 5.

CHAPTER 4

PUBLIC RECORDS MANAGEMENT AND ARCHIVES

SUBCHAPTER

1. GENERAL PROVISIONS. [REPEALED.]
2. ELECTRONIC COURT RECORDS.
3. COUNTY RECORDS RETENTION.

A.C.R.C. Notes. References to “this chapter” in subchapter 1 may not apply to subchapter 2 which was enacted subsequently.

Publisher’s Notes. Former Chapter 4, concerning public records management and archives, was repealed by Acts 1995, No. 905, § 11. The former chapter was derived from the following sources:

13-4-101. Acts 1973, No. 24, § 1; A.S.A. 1947, § 16-701.

13-4-102. Acts 1973, No. 24, § 2; A.S.A. 1947, § 16-702; Acts 1987, No. 500, § 1.

13-4-103. Acts 1973, No. 24, § 3; A.S.A. 1947, § 16-703.

13-4-104. Acts 1973, No. 24, § 4; A.S.A. 1947, § 16-704; Acts 1987, No. 500, §§ 2, 3.

13-4-105. Acts 1973, No. 24, § 5; A.S.A. 1947, § 16-705; Acts 1987, No. 500, §§ 4-7.

Former §§ 13-4-106 — 13-4-108, concerning state and local government records committees, were previously repealed by Acts 1987, No. 500, § 8. They were derived from the following sources:

13-4-106. Acts 1973, No. 24, § 6; A.S.A. 1947, § 16-706.

13-4-107. Acts 1973, No. 24, § 7; A.S.A. 1947, § 16-707.

13-4-108. Acts 1973, No. 24, § 8; A.S.A. 1947, § 16-708.

13-4-109. Acts 1973, No. 24, § 9; A.S.A. 1947, § 16-709.

13-4-110. Acts 1973, No. 24, § 10; A.S.A. 1947, § 16-710.

Cross References. Arkansas History Commission, § 13-3-101 et seq.

Public records generally, § 14-2-101 et seq.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Access to Public Records under the Arkansas Freedom of Information Act, 37 Ark. L. Rev. 741.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

13-4-101 — 13-4-112. [Repealed.]

13-4-101 — 13-4-112. [Repealed.]

Publisher’s Notes. This subchapter, regarding public records management and archives, was repealed by Acts 2001, No. 1252, § 1. The subchapter was derived from the following sources:

13-4-101. Acts 1995, No. 905, § 1.

13-4-102. Acts 1995, No. 905, § 2.

13-4-103. Acts 1995, No. 905, § 3.

13-4-104. Acts 1995, No. 905, § 4.

13-4-105. Acts 1995, No. 905, § 5; 1997, No. 250, § 76.

13-4-106. Acts 1995, No. 905, § 6.

13-4-107. Acts 1995, No. 905, § 6.

13-4-108. Acts 1995, No. 905, § 6.

13-4-109. Acts 1995, No. 905, § 7.

13-4-110. Acts 1995, No. 905, § 7.

13-4-111. Acts 1995, No. 905, § 8.

13-4-112. Acts 1995, No. 905, § 9.

SUBCHAPTER 2 — ELECTRONIC COURT RECORDS

SECTION.

13-4-201. Electronic reproduction of court records.

13-4-202. Requirements for format and storage of records.

SECTION.

13-4-203. Records Retention Committee.

13-4-204. Destruction of original.

13-4-201. Electronic reproduction of court records.

Court clerks and any other public officers whose duty it is to make and maintain court records are authorized to use and employ an approved system of photographic recording, photostatic recording, microfilm, microcard, miniature photographic recording, digital compact disc, optical disc, and any other process that accurately reproduces or forms a durable medium for reproducing the original.

History. Acts 1995, No. 1061, § 1; substituted “Court clerks” for “The circuit 1997, No. 882, § 1; 2003, No. 1185, § 20. clerks, county clerks, municipal clerks and recorders.”

13-4-202. Requirements for format and storage of records.

When equipment necessary for such methods of recording is used to record court records, it shall meet all of the following requirements:

(1) The information retained shall be in a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect those records against media destruction or deterioration and information loss; and

(4) A retention conversion-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion or recertification at least one (1) time every five (5) years or more frequently when necessary to prevent the physical loss of data or technological obsolescence of the medium.

History. Acts 1995, No. 1061, § 1.

13-4-203. Records Retention Committee.

(a) A Records Retention Committee shall be created, whose responsibility shall be to study, develop, and issue standards consistent with the guidelines enumerated in § 13-4-202 which pertain to existing and future recording systems.

(b) The committee shall include one (1) representative from each of the following:

- (1) The Arkansas County Clerks Association;
- (2) The Arkansas Circuit Clerks Association;
- (3) The Association of Arkansas Counties;
- (4) The Arkansas History Commission;
- (5) The Department of Information Systems;
- (6) The Association of Records Managers and Administrators; and
- (7) The Arkansas City Clerks Association.

(c) The committee shall be chaired by a representative from the Administrative Office of the Courts.

History. Acts 1995, No. 1061, § 2; 1997, No. 544, § 1.

13-4-204. Destruction of original.

(a) When any document is recorded by the means prescribed by § 13-4-201, the paper original may be destroyed unless the document is over fifty (50) years old and handwritten or has been determined to be of historical value by the Arkansas History Commission.

(b) If the paper original does not meet these criteria, the electronically stored document shall be considered the “original” document and shall be treated as such when proffered with the recorder’s certification.

History. Acts 1995, No. 1061, § 2; 1997, No. 882, § 2; 2001, No. 311, § 1.

Amendments. The 2001 amendment substituted “paper original may be” for “original may be,” and substituted “has been determined ...recorder’s certification” for “its preservation is otherwise required by law.”

SUBCHAPTER 3 — COUNTY RECORDS RETENTION

SECTION.

- 13-4-301. Retention required — Destruction.
- 13-4-302. Court records.
- 13-4-303. Tax and assessment records.
- 13-4-304. Financial records.
- 13-4-305. Recorder’s records.

SECTION.

- 13-4-306. Voter registration and election records.
- 13-4-307. Marriage records — License and bond records.
- 13-4-308. Corporation records.

Publisher’s Notes. This subchapter was formerly codified as § 13-10-101 et seq.

Effective Dates. Identical Acts 1995, Nos. 925 and 939, § 3: January 1, 1996.

13-4-301. Retention required — Destruction.

(a)(1) All counties of the State of Arkansas shall maintain the records named in this subchapter for the period of time provided for in this subchapter, after which time the records may be destroyed.

(2)(A) But in no case shall the records be destroyed until at least one (1) year after an audit by the Division of Legislative Audit or any private auditor is completed and approved.

(B) No record of any kind over fifty (50) years old will be destroyed before written notice by the custodian of the records in question has been furnished to the Arkansas History Commission, describing the scope and nature of the records, at least sixty (60) days prior to the destruction of the records.

(b) If a record is photographically transferred to other media of a permanent nature, the original documents may be destroyed, except that no handwritten records over fifty (50) years old shall be destroyed.

(c) Before any record shall be destroyed, the custodian of the record shall document the date and type of document.

History. Acts 1991, No. 800, § 8; 1997, No. 882, § 3.

13-4-302. Court records.

All counties of the State of Arkansas shall maintain records for the county courts as follows, if they are currently being maintained:

(1) For circuit court, civil and criminal, chancery, juvenile, paternity-bastardy, and probate records:

(A) Permanently maintain:

(i) Complete case files and written exhibits for all courts;

(ii) Case indices for all courts;

(iii) Case dockets for all courts;

(iv) Grand jury reports;

(v) Grand juror lists; and

(vi) All probate records required to be maintained under § 28-1-108;

(B) Maintain for ten (10) years, after audit by the Division of Legislative Audit:

(i) Records and reports of costs; and

(ii) Fees assessed and collected;

(C) Maintain for three (3) years, after audit by the Division of Legislative Audit:

(i) Cancelled checks;

(ii) Bank statements; and

(iii) Petit juror lists;

(2) For county court records:

(A) Permanently maintain:

(i) County court record;

(ii) Cemetery permits;

(iii) Statement of receipt and expenditures; and

(iv) County improvement districts;

(B) Maintain for ten (10) years, after audit by the Division of Legislative Audit:

(i) County court file;

(ii) County general claims docket;

(iii) County road claims docket;

(iv) Contracts for lease-purchase on rental payments;

(v) County school board financial reports;

(vi) Solid waste disposal revenue bonds; and

(vii) Allocation of state funds for solid waste disposal;

(3) For quorum court records:

(A) Permanently maintain:

(i) Ordinance, appropriation ordinance, and resolution register;

(ii) Record of proceedings;

(iii) Codification of ordinances;

(iv) Register of county advisory and administrative boards;

(v) Appointments to subordinate service districts; and

(vi) Quorum court minutes; and

(B) Maintain for one (1) year: Treasurer's monthly financial report.

History. Acts 1991, No. 800, § 1.

A.C.R.C. Notes. As enacted, this section began "On and after July 15, 1991."

13-4-303. Tax and assessment records.

All counties of the State of Arkansas shall maintain county tax and assessment records as follows, if they are currently being maintained:

(1) For tax and assessment records:

(A) Permanently maintain:

- (i) Real estate, personal, and mineral tax book;
- (ii) Delinquent real estate;
- (iii) Personal property list;
- (iv) Lands forfeited to the state, and minerals;
- (v) Land book of state and federally owned lands;
- (vi) Clerk's deed of land sold for taxes;
- (vii) Journal of proceedings of the county equalization board;
- (viii) Final settlement of tax books; and
- (ix) Original charge for all taxing units and certification;

(B) Maintain for seven (7) years:

- (i) Real estate and personal assessment record;
- (ii) Real estate and personal tax receipts recorded in tax books; and
- (iii) Redemption certificate;

(C) Maintain for five (5) years after rollback is complete: Certification of tax adjustment for public utilities and regulated carriers (computation of utility tax);

(D) Maintain for three (3) years:

- (i) Delinquent personal tax settlement;
- (ii) Land redemption report;
- (iii) State lands distribution; and
- (iv) Monthly tax distribution;

(E) Maintain for one (1) year, after audit by the Division of Legislative Audit:

- (i) Valuation of real and personal property of utilities; and
- (ii) Real and personal property tax correction forms;

(2)(A) For county assessor's records, maintain for five (5) years:

- (i) Real estate appraisal card after reappraisal;
- (ii) Lists of names of taxpayers furnished to assessor by school boards; and
- (iii) The personal, commercial, and industrial assessment forms.

(B) Prior to destruction of these forms, they will be made available to the county collector;

(3) For county collector's records:

(A) Maintain permanently:

- (i) Certified delinquent real estate list with publication certificate;
- (ii) Certified delinquent list for real estate forfeited to the Commissioner of State Lands with publication certification;

- (iii) Personal property tax book;
- (iv) Certified delinquent personal property list; and
- (v) Delinquent ad valorem tax lists for oil and gas interests;
- (B) Maintain for ten (10) years: Tax settlements;
- (C) Maintain for seven (7) years:
 - (i) Real estate redemption certificates;
 - (ii) Cash receipts and disbursement journal; and
 - (iii) Collector's copy of tax receipts; and
- (D) Maintain for three (3) years:
 - (i) Daily collection reports; and
 - (ii) Distraint of goods and garnishment to pay delinquent personal taxes.

History. Acts 1991, No. 800, § 2.

A.C.R.C. Notes. As enacted, this section began "On and after July 15, 1991."

13-4-304. Financial records.

All counties of the State of Arkansas shall maintain financial records for the county as follows, if they are currently being maintained:

(1) FICA — Social Security and federal income tax records maintained per federal regulations;

(2) State Income Tax records maintained per state law and regulations;

(3) Wage garnishments maintained until after a lien is satisfied;

(4)(A) Maintain for seventy-five (75) years:

(i) Payroll records and ledger; and

(ii) Retirement records;

(B) Maintain for ten (10) years:

(i) Appropriation journal (record of disbursements); and

(ii) Warrant register or check disbursement record;

(C) Maintain for seven (7) years:

(i) County general claims certificate or invoice;

(ii) County road claims certificate or invoice; and

(iii) County school claims certificate or invoice;

(D) Maintain for five (5) years:

(i) Unemployment insurance state contribution; and

(ii) Workers' compensation insurance payment; and

(E) Maintain for three (3) years:

(i) Warrants or checks, or both, with documentation;

(ii) Bank records for trust, agency, fee, and court accounts (bank statements and cancelled checks); and

(iii) Receipt books and disbursement journal;

(5) For county treasurer's records:

(A) Maintain permanently:

(i) Treasurer's operating and clearing account ledgers;

(ii) Treasurer's trust and agency account ledgers;

(iii) Treasurer's city account ledgers;

- (iv) Treasurer's improvement district account ledgers; and
- (v) Treasurer's school district account ledgers;
- (B) Maintain for seven (7) years:
 - (i) Land redemption receipts;
 - (ii) Annual settlement with county court; and
 - (iii) Record of school bond indebtedness and school district bonds — matured; and
- (C) Maintain for three (3) years:
 - (i) Receipt books;
 - (ii) Bank statements and cancelled checks;
 - (iii) Cancelled warrants;
 - (iv) Treasurer's monthly reconciliation;
 - (v) Treasurer's monthly report to quorum court;
 - (vi) Delinquent land redemption distribution reports;
 - (vii) Delinquent personal distribution reports;
 - (viii) County officials' monthly reports;
 - (ix) Municipal court monthly reports;
 - (x) Treasurer's monthly report to prosecuting attorney;
 - (xi) School district bank statements;
 - (xii) Annual report to county school supervisor;
 - (xiii) Register of school warrants;
 - (xiv) Teachers and school employee contracts; and
 - (xv) Surety bond of school district treasurer and superintendent.

History. Acts 1991, No. 800, § 3.

A.C.R.C. Notes. As enacted, this section began "On and after July 15, 1991."

13-4-305. Recorder's records.

All counties of the State of Arkansas shall maintain county recorder's records for the county as follows, if they are currently being maintained:

- (1) Maintain permanently:
 - (A) Deeds, mortgages, assignments, and all other conveyance records;
 - (B) Forfeited land records;
 - (C) Timber, mineral, oil and gas deeds and leases;
 - (D) Surveys;
 - (E) Subdivision plats;
 - (F) Lien records;
 - (G) Military discharge records; and
 - (H) Indices to all records; and
- (2) Maintain for ten (10) years: Notary public bonds and official appointment bonds.

History. Acts 1991, No. 800, § 4.

A.C.R.C. Notes. As enacted, this section began "On and after July 15, 1991."

13-4-306. Voter registration and election records.

All counties of the State of Arkansas shall maintain county voter registration and election records for the county as follows, if they are currently being maintained:

(1) Maintain permanently:

(A) Voter registration record files;

(B) Maps of election precincts from the county election commission;

(C) Certificate of election; and

(D) Ordinance election results; and

(2)(A) Maintain for ten (10) years, after cancelled: A person's voter registration record and reason for cancellation of a person's voter registration.

(B) Maintain for ten (10) years:

(i) Minutes of board of election commission; and

(ii) Election file.

(C) Maintain for five (5) years:

(i) Petition, certificate, and notices for ordinance;

(ii) Political practice pledge;

(iii) Campaign contribution and expenditure sheets;

(iv) Code of ethics statements; and

(v) Financial disclosure.

(D) Maintain for two (2) years:

(i) Acknowledgement notices giving the disposition of a person's voter registration application;

(ii) Precinct voter registration lists prepared for each election;

(iii) Confirmation notices mailed by a county clerk to confirm a voter's change of residence or name;

(iv) Confirmation return cards received in response to a confirmation notice; and

(v) Absentee ballot applications and lists, except where litigation follows or federal law governs.

History. Acts 1991, No. 800, § 5; 1995, No. 925, § 2; 1995, No. 939, § 2.

A.C.R.C. Notes. As enacted, this section began "On and after July 15, 1991."

13-4-307. Marriage records — License and bond records.

All counties of the State of Arkansas shall maintain county marriage records, licenses, and bonds records for the county as follows, if they are currently being maintained:

(1) Maintain permanently:

(A) Marriage record and index;

(B) Clerical licenses and credentials;

(C) Medical license for physicians, physical therapists, podiatrists, osteopaths, and chiropractors; and

(D) Record of marks and brands;

- (2) Maintain for seven (7) years:
 - (A) Surety bonds for county and township officials (until 1986);
 - (B) County employees blanket bonds;
 - (C) Oaths and bonds of county officials; and
 - (D) Deputies, school supervisors, etc.; and
- (3) Maintain for one (1) year:
 - (A) Notice of intention to wed;
 - (B) Going-out-of-business sale license;
 - (C) Bond for going-out-of-business sale license;
 - (D) Transient merchant license;
 - (E) Transient merchant license bond;
 - (F) Garnishment bonds; and
 - (G) Mercury refiners license.

History. Acts 1991, No. 800, § 6.

A.C.R.C. Notes. As enacted, this section began "On and after July 15, 1991."

13-4-308. Corporation records.

All counties of the State of Arkansas shall maintain corporation records for the county, if they are currently being maintained, permanently as follows:

- (1) Articles of incorporation;
- (2) Certificate of business under assumed name;
- (3) Articles of amendment;
- (4) Registration of fictitious names of corporation;
- (5) Articles of merger or consolidation;
- (6) Change of registered office or agent;
- (7) Authorized share of stock;
- (8) Cancellation of shares; and
- (9) Certificate of dissolution of corporation.

History. Acts 1991, No. 800, § 7.

A.C.R.C. Notes. As enacted, this section began "On and after July 15, 1991."

CHAPTER 5

MUSEUMS

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. MUSEUM SERVICES.
- 3. ARKANSAS MUSEUM AND CULTURAL CENTER ACT.
- 4. MUSEUM OF NATURAL RESOURCES.
- 5. COUNTY MUSEUMS.
- 6. ARKANSAS POST MUSEUM.
- 7. DELTA CULTURAL CENTER.
- 8. ARKANSAS COTTON MUSEUM.
- 9. MOSAIC TEMPLARS OF AMERICA CENTER FOR AFRICAN-AMERICAN CULTURE AND BUSINESS ENTERPRISE.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.
13-5-101. Loan of museum objects.

Effective Dates. Acts 1969, No. 561, § 13: Apr. 18, 1969. Emergency clause provided: "It is hereby found and determined that the Sixty-seventh General Assembly has, by a vote of two-thirds of the members elected to both Houses, voted to extend the regular session of the Sixty-seventh General Assembly, as authorized in the Constitution; that under the provisions of Amendment 7 to the Constitution, enactments of the General Assembly that do not have an emergency clause do not become effective until ninety (90) days after the date of final adjournment of the General Assembly; that the extended session of the General Assembly may not adjourn in time for this act to take effect prior to July 1, 1969, thereby depriving

the agency for which funds are appropriated herein of necessary operating funds to commence the next fiscal biennium; and in order that the appropriation made herein may be available on July 1, 1969, the General Assembly hereby determines that the immediate passage of this act is necessary for the maintenance and operation of the essential governmental services. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval, provided that the appropriation authorized herein shall not be available until July 1, 1969."

13-5-101. Loan of museum objects.

All state agencies and institutions possessing museum objects in excess of their own needs for display, education, or research are authorized and urged to make those objects available on a loan basis to state-financed museums in this state in order that the residents of this state may receive maximum enjoyment and education from the objects.

History. Acts 1969, No. 561, § 9.

SUBCHAPTER 2 — MUSEUM SERVICES

SECTION.
13-5-201. Definition.
13-5-202 — 13-5-205. [Repealed.]
13-5-206. Program of grants-in-aid and technical assistance.

SECTION.
13-5-207. Arkansas Museum Review Panel.

Preambles. Acts 1979, No. 832 contained a preamble which read: "Whereas, museums preserve our heritage for the benefit, enjoyment, and education of the citizens of all ages and from every community in Arkansas; and
"Whereas, museums are unique cultural resources through the preservation, exhibition, and documentation of histori-

cally, scientifically, and artistically significant facts and artifacts; and
"Whereas, museums provide a unique educational tool which can directly supplement the state's educational system through demonstrating the use and significance of said artifacts;
"Now therefore...."
Effective Dates. Acts 1979, No. 832,

§ 15: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an immediate need to establish Arkansas Museum Services and transfer the Des Arc Archeological Center, the Museum and Cultural Commission and the Arkansas Oil Museum to the Museum Services Division of the Department of Parks and Tourism so as to ensure the preservation of, the state's heritage and to assist, promote, and advance the purposes of the museums throughout Arkansas. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from July 1, 1979."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 estab-

lished the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-5-201. Definition.

As used in this subchapter, "museum" means an organized and permanent nonprofit institution with professional staff, essentially educational or esthetic in purpose, which owns and utilizes tangible objects of service, history, art, or culture, cares for them, and exhibits them to the public on some regular schedule.

History. Acts 1979, No. 832, § 2; A.S.A. 1947, § 5-907.7.

13-5-202 — 13-5-205. [Repealed.]

Publisher's Notes. These sections, concerning the Museum Services Division, the Division's functions, the Division's director, and the acceptance of grants and donations, were repealed by Acts 2001, No. 802, § 1. The sections were derived from the following sources:

13-5-202. Acts 1979, No. 832, § 1; A.S.A. 1947, § 5-907.6.

13-5-203. Acts 1979, No. 832, § § 2,4; 1983, No. 758, § 1; A.S.A. 1947, § § 5-907.7, 5-907.9.

13-5-204. Acts 1979, No. 832, § 4; 1983, No. 758, § 1; A.S.A. 1947, § 5-907.9.

13-5-205. Acts 1979, No. 832, § 6; A.S.A. 1947, § 5-907.11.

13-5-206. Program of grants-in-aid and technical assistance.

(a) The State Parks Division of the Department of Parks and Tourism shall establish and carry out a program of grants-in-aid to eligible museums or, in appropriate cases, organizations engaged in or concerned with history, science, art, or culture on the basis of fifty percent (50%) state grant funds and fifty percent (50%) of the funds to be provided by the museum, as follows:

(1) Only museums and programs concerned with historical, scientific, cultural, or artistically oriented programs offering nonprofit services to the general public may make application for and qualify for funds under this subchapter;

(2) None of the funds received by a museum or other organization which qualifies or utilizes funds under this subchapter shall be used as matching funds for other state funds; and

(3) All requests for state grant funds under this subchapter shall be prepared on forms promulgated or approved by the division and shall be in compliance with the provisions of this subchapter and with reasonable rules and regulations to be promulgated by the division for the administration of this subchapter.

(b) The division shall provide technical assistance and information to all museums and museum personnel in Arkansas, within the limitations of available staff and funding.

History. Acts 1979, No. 832, § 3; A.S.A. 1947, § 5-907.8; Acts 2001, No. 802, § 2.

A.C.R.C. Notes. Acts 2001, No. 802, § 12, provided: "All powers, duties, and functions of the Museum Services Division of the Department of Parks and Tourism are hereby transferred to the State Parks Division of the Department of Parks and Tourism."

Amendments. The 2001 amendment inserted "and technical assistance" in the section heading; in (a), substituted "State Parks Division of the Department of Parks and Tourism" for "Arkansas Museum Services Division", and deleted a comma following "culture"; and added (b).

13-5-207. Arkansas Museum Review Panel.

(a)(1) The Governor shall establish an Arkansas Museum Review Panel to consist of five (5) members, one (1) member from each congressional district and one (1) member designated at large.

(2) The members shall serve two-year terms.

(b) The sole purpose and authority of the panel is to analyze, review, and approve the qualifications of the applications and to present recommendations to the Director of the State Parks Division of the Department of Parks and Tourism for the awarding of grants to eligible museums on a yearly basis with the final approval of the Director of the Department of Parks and Tourism.

(c)(1) The panel shall serve without pay. However, the division is authorized to reimburse the members of the panel for expenses in accordance with § 25-16-901 et seq.

(2) However, the State Parks Division of the Department of Parks and Tourism is authorized to reimburse the members of the panel for expenses in accordance with § 25-16-901 et seq.

History. Acts 1979, No. 832, § 5; 1983, No. 758, § 2; 1985, No. 944, § 1; A.S.A. 1947, § 5-907.10; Acts 1997, No. 250, § 77; 2001, No. 802, § 3.

Amendments. The 2001 amendment

deleted "Services" following "Museum" in the section heading and (a)(1); and substituted "State Parks Division of the Department of Parks and Tourism" for "Arkansas Museum Services Division" in (b).

Cross References. Effect of reduction of congressional districts on state boards and commissions, § 25-16-801.

SUBCHAPTER 3 — ARKANSAS MUSEUM AND CULTURAL CENTER ACT

SECTION.

- 13-5-301. Title.
- 13-5-302. Construction of subchapter.
- 13-5-303 — 13-5-306. [Repealed.]
- 13-5-307. Funds for museum and cultural center — Issuance of bonds.
- 13-5-308. Authorizing resolutions.
- 13-5-309. Terms and characteristics of bonds.
- 13-5-310. Contract with bond owners — Enforcement.
- 13-5-311. Sale of bonds.
- 13-5-312. Execution of bonds and coupons.
- 13-5-313. Statements on bonds — Liability.

SECTION.

- 13-5-314. Disposition of revenues.
- 13-5-315. Debt service — Pledge of revenues and earnings — Admission charges.
- 13-5-316. Administration of debt-servicing provisions — Bond guaranty fund.
- 13-5-317. Refunding bonds.
- 13-5-318. Tax exemptions.
- 13-5-319. Investment by retirement systems.
- 13-5-320. Audit of records and accounts.
- 13-5-321. Employment of personnel.

Publisher's Notes. The Arkansas Museum and Cultural Commission created under § 13-5-303 was abolished by Acts 1991, No. 343, § 3.

Preambles. Acts 1979, No. 832 contained a preamble which read: "Whereas, museums preserve our heritage for the benefit, enjoyment, and education of the citizens of all ages and from every community in Arkansas; and

"Whereas, museums are unique cultural resources through the preservation, exhibition, and documentation of historically, scientifically, and artistically significant facts and artifacts; and

"Whereas, museums provide a unique educational tool which can directly supplement the state's educational system through demonstrating the use and significance of said artifacts;

"Now therefore...."

Effective Dates. Acts 1975 (Extended Sess., 1976), No. 1018, § 3: Jan. 27, 1976. Emergency clause provided: "It is hereby found and determined by the General Assembly that the securing of bonds issued by the Museum and Cultural Commission by a partial pledge of interest earnings derived from investment of idle State Treasury funds is necessary to ensure continued progress in promoting cultural activities for the citizens of Arkansas.

Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975 (Extended Sess., 1976), No. 1035, § 3: Jan. 27, 1976. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly, meeting in Extended Session, that the standardization of mileage reimbursement for members of the state's boards and commissions will alleviate many discrepancies and inequities in existing laws and will allow such members to receive travel reimbursement commensurate with that paid to state employees. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 832, § 15: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an immediate need to establish Arkansas Museum Services and transfer the Des Arc Archeological Center, the Museum and Cultural Commission and the Arkansas Oil Museum to the

Museum Services Division of the Department of Parks and Tourism so as to ensure the preservation of, the state's heritage and to assist, promote, and advance the purposes of the museums throughout Ar-

kansas. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from July 1, 1979."

13-5-301. Title.

This subchapter shall be known as the "Arkansas Museum and Cultural Center Act".

History. Acts 1971, No. 515, § 15; A.S.A. 1947, § 6-1201.

13-5-302. Construction of subchapter.

This subchapter shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

History. Acts 1971, No. 515, § 12; A.S.A. 1947, § 6-1212.

13-5-303 — 13-5-306. [Repealed.]

Publisher's Notes. Acts 1991, No. 343, § 3, provided, in part, that "the Arkansas Museum and Cultural Commission created under Arkansas Code § 13-5-303 is abolished."

These sections, concerning the Arkansas Museum and Cultural Commission, were repealed by Acts 1991, No. 343, § 3. They were derived from the following sources:

13-5-303. Acts 1971, No. 515, §§ 1, 2; 1975 (Extended Sess., 1976), No. 1035, § 1; A.S.A. 1947, §§ 6-616, 6-1202, 6-1203; reen. Acts 1987, No. 862, § 1.

13-5-304. Acts 1971, No. 515, § 3; 1979, No. 832, § 8; A.S.A. 1947, § 6-1204.

13-5-305. Acts 1971, No. 515, § 4; A.S.A. 1947, § 6-1205.

13-5-306. Acts 1971, No. 515, § 4; A.S.A. 1947, § 6-1205.

13-5-307. Funds for museum and cultural center — Issuance of bonds.

(a)(1) The Director of the Department of Parks and Tourism is authorized to use any available funds for the construction, equipment, and operation of a museum and cultural center.

(2) The director is authorized to issue revenue bonds, secured by and payable from the revenues specified in this subchapter, and to use the proceeds of the bonds for the acquisition, construction, and equipment of the center.

(b) The principal amount of bonds to be issued by the director shall be sufficient, together with any available funds, to pay the cost of accomplishing the specified purposes, the costs of authorizing and issuing bonds, the amounts necessary for reserves if deemed desirable by the director, the amounts necessary for interest during and for up to

one (1) year after construction, and all other costs of whatever nature incidental to the accomplishment of the center, but in no event shall the aggregate principal amount of bonds exceed twelve million dollars (\$12,000,000).

(c)(1) No bonds shall be issued under the provisions of this subchapter unless and until the director, or a department, or educational or other institution, or agency of the State of Arkansas has entered into a signed agreement with the Smithsonian Institution, an agency thereof, or organization affiliated therewith, which agreement shall provide that the Smithsonian Institution, the agency, or organization shall involve itself with the Arkansas Museum and Cultural Center and its operation.

(2) The agreement must first be approved in writing by the Governor of the State of Arkansas.

History. Acts 1971, No. 515, §§ 5, 9; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, §§ 6-1206, 6-1209.

13-5-308. Authorizing resolutions.

(a) Bonds shall be authorized by resolution of the Director of the Department of Parks and Tourism.

(b) The authorizing resolution may contain or may provide for the execution of a trust indenture which may contain any other terms, covenants, and conditions that are deemed desirable by the director, including, without limitation, those pertaining to:

- (1) The maintenance of various funds and reserves;
- (2) The nature and extent of revenue pledges and security;
- (3) The conditions precedent to the issuance of additional bonds and the priority of lien and pledge in that event;
- (4) The custody and application of the proceeds of the bonds;
- (5) The collection and disposition of revenues;
- (6) The investing and reinvesting in securities specified by the director of any moneys during periods not needed for authorized purposes; and
- (7) The rights, duties, and obligations of the director and of the holders and registered owners of the bonds.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206.

13-5-309. Terms and characteristics of bonds.

(a) As the Director of the Department of Parks and Tourism shall determine, bonds issued pursuant to this subchapter may:

- (1) Be coupon bonds, payable to bearer, or may be registrable as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination;

(2) Be in a form and denomination as the director determines;

(3) Have such date or dates, may be stated to mature at such times, and bear interest payable at such times and at such rate or rates, as the director determines, provided that no bond may bear interest at a rate exceeding eight percent (8%) per annum;

(4) Be made payable at places within or without the State of Arkansas;

(5) Be made subject to terms of redemption in advance of maturity at such prices, as determined by the director;

(6) Be issued in series from time to time; and

(7) Contain such terms and conditions as the director determines.

(b) Subject to provisions as to registration as set forth in subsection (a) of this section, the bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas.

History. Acts 1971, No. 515, § 5; 1975
(Extended Sess., 1976), No. 1018, § 2;
A.S.A. 1947, § 6-1206.

13-5-310. Contract with bond owners — Enforcement.

(a) Any authorizing resolution and trust indenture shall, together with this subchapter, constitute a contract between the Director of the Department of Parks and Tourism and the holders and registered owners of the bonds.

(b) This contract and all covenants, agreements, and obligations therein shall be promptly performed in strict compliance with the terms and provisions of the contract.

(c) The covenants, agreements, and obligations of the director may be enforced by mandamus or other appropriate proceedings at law or in equity.

History. Acts 1971, No. 515, § 5; 1975
(Extended Sess., 1976), No. 1018, § 2;
A.S.A. 1947, § 6-1206.

13-5-311. Sale of bonds.

(a) The bonds shall be sold at public sale on sealed bids after such advertisement as the Director of the Department of Parks and Tourism shall determine to be necessary for the obtaining of favorable competitive bidding.

(b) In no event shall any bid be accepted which results in a net interest cost, which is determined by computing the aggregate interest cost from date to maturity at the rates bid and deducting any premium or adding the amount of any discount, in excess of the interest cost computed at par for bonds bearing interest at the rate of eight percent (8%) per annum.

(c) The bonds shall not be subject to conversion.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206.

13-5-312. Execution of bonds and coupons.

(a) The bonds shall be executed by the manual or facsimile signature of the Director of the Department of Parks and Tourism. The coupons attached to the bonds shall be executed by the facsimile signature of the director.

(b) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of the bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes.

(c) The director shall adopt and use a seal in the execution and issuance of the bonds. Each bond shall be sealed with the seal of the director.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206.

13-5-313. Statements on bonds — Liability.

(a) It shall be plainly stated on the face of each bond that:

(1) The bond has been issued under the provisions of this subchapter;
(2) The bonds are obligations only of the Director of the Department of Parks and Tourism;

(3) In no event do the bonds constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged; and

(4) The bonds are not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas or the Department of Parks and Tourism.

(b) No member of the department shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this subchapter unless he or she shall have acted with a corrupt intent.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206.

13-5-314. Disposition of revenues.

(a) All revenues derived from the operation of the Arkansas Museum and Cultural Center and all other funds received by the Director of the Department of Parks and Tourism from other sources for use in connection with the center and its operation are center revenues and are specifically declared to be cash funds, restricted in their use and to be used solely as provided in this subchapter.

(b) These revenues shall not be deposited in the State Treasury but shall be deposited by the Department of Parks and Tourism as and when received in a bank or banks as the director may from time to time select.

(c)(1) Center revenues shall be applied annually in the following order:

(A) To the extent necessary after taking into consideration any other funds which may be available for the purpose, for operation and maintenance expenses of the center; and

(B) To the payment of the principal of, interest on, and trustee's and paying agent's fees in connection with bonds issued under this subchapter, and the establishing and maintaining of any debt service reserves.

(2) Should there be any excess after subdivisions (c)(1)(A) and (B) of this section, the excess may be applied, as determined by the director, to the redemption of bonds prior to maturity or for the payment of any costs and expenses incurred by the director in the accomplishment of the powers and authorities conferred upon the director by § 13-5-304 [repealed].

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206.

13-5-315. Debt service — Pledge of revenues and earnings — Admission charges.

(a) The payment of debt service, including principal, interest, and trustee's and paying agent's fees, shall be secured by a lien on and pledge of net center revenues, which are gross revenues less those revenues applied to operation and maintenance as set forth in § 13-5-314.

(b) As additional security, the payment of debt service may be secured by a pledge of earnings to the extent specified in this section derived from the investment of state funds pursuant to the State Treasury Management Law, § 19-3-501 et seq., known as the "investment earnings".

(c) Any pledge of investment earnings shall be subordinate to pledges authorized by the Industrial Development Guaranty Bond Act, § 15-4-701 et seq.

(d) No earnings from the investment of state funds shall be pledged to secure bonds issued by the Director of the Department of Parks and Tourism under this subchapter unless the director shall first enter into an agreement with the State Board of Finance to charge appropriate fees for admission to the Arkansas Museum and Cultural Center and to set aside in a special sinking fund, to be used exclusively to pay the principal of, interest on, and paying agent's fees in connection with, bonds issued by the director, at least seventy-five cents (75¢) of the admission fee collected for each adult and fifty cents (50¢) of the

admission fee collected for each person of the ages of six (6) to seventeen (17), inclusive.

(e) However, the director may waive all admission charges or establish special reduced admission charges for any school-sponsored student, students, or groups, in which cases the provisions of this section relating to the setting aside of a prescribed amount of each admission charge for payment of principal and interest on bonds shall not apply.

(f) Notwithstanding the provisions of § 13-5-314, the revenues required to be set aside into the special sinking fund shall not be deposited or used for any purpose other than for payment of principal, interest, and paying agent's fees on bonds issued under this subchapter.

(g) All pledges of investment earnings under this subchapter shall not exceed in the aggregate five hundred thousand dollars (\$500,000) for any fiscal year.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206. **Cross References.** State Board of Finance, § 19-3-101 et seq.

13-5-316. Administration of debt-servicing provisions — Bond guaranty fund.

(a) The Director of the Department of Parks and Tourism shall notify the State Board of Finance or the appropriate officer, board, or agency then having jurisdiction over the moneys involved when the director has determined to issue bonds under this subchapter and the amount of investment earnings pledged.

(b)(1) Thereafter, the director shall constantly keep advised of revenues derived from the Arkansas Museum and Cultural Center.

(2) If it develops that all or any portion of the investment earnings pledged will actually be needed to satisfy the terms of the pledge, the director shall promptly notify the board of the amount that will be actually needed each month to provide for the payment of interest, principal, and paying agents' fees and for the maintenance of reserves as specified by the director in the resolution or trust indenture authorizing and securing the bonds, which monthly amount is designated the "debt service amount".

(c) At the receipt of the notice, the board or the appropriate officer, board, or agency then having jurisdiction over the moneys involved shall set aside the debt service amount of the investment earnings and, subject to first complying with any pledge heretofore or any time hereafter made of investment earnings authorized by the Industrial Development Guaranty Bond Act, § 15-4-701 et seq., shall pay the debt service amount directly to the director in a bank or banks selected by the director and designated the "Arkansas Museum and Cultural Center Bond Guaranty Fund", also known as the "Center Guaranty Fund".

(d)(1) Moneys in the fund shall be used to pay the principal of, interest on, and paying agent's fees in connection with the bonds and to maintain reserves as authorized by this subchapter.

(2)(A) The payments shall continue until the director shall determine that center revenues in the future will be sufficient and shall notify the board to cease paying the debt service amount.

(B) The payments, within the limits of outstanding pledges made pursuant to the provisions of this subchapter, shall be resumed and discontinued as required.

(e) The debt service amount and all moneys deposited or to be deposited in the fund are declared to be cash funds, restricted in their use and dedicated and to be used solely as authorized in this subchapter.

(f) So long as any bonds authorized by this subchapter are outstanding, the authorization made shall not be repealed or diminished without providing an alternate source of funds sufficient to satisfy all revenue pledges made to bonds issued under this subchapter.

History. Acts 1971, No. 515, § 5; 1975 (Extended Sess., 1976), No. 1018, § 2; A.S.A. 1947, § 6-1206.

13-5-317. Refunding bonds.

(a) The Director of the Department of Parks and Tourism is authorized to issue bonds to refund any bonds issued under the authority of this subchapter.

(b) All refunding bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this subchapter and shall have all the attributes of such bonds.

History. Acts 1971, No. 515, § 7; A.S.A. 1947, § 6-1207.

13-5-318. Tax exemptions.

Bonds issued under this subchapter shall be exempt from all state, county, and municipal taxes.

History. Acts 1971, No. 515, § 8; A.S.A. 1947, § 6-1208.

13-5-319. Investment by retirement systems.

The board of trustees of any retirement system now existing or created by the General Assembly may invest its funds in bonds issued under this subchapter.

History. Acts 1971, No. 515, § 9; A.S.A. 1947, § 6-1209.

13-5-320. Audit of records and accounts.

The Division of Legislative Audit is authorized and directed to audit the records and accounts of the Director of the Department of Parks and Tourism and to furnish a copy of the report of that audit to the Department of Parks and Tourism.

History. Acts 1971, No. 515, § 10; A.S.A. 1947, § 6-1210.

13-5-321. Employment of personnel.

(a) The Director of the Department of Parks and Tourism is authorized to employ such full-time or temporary professional, technical, and other consulting services as the director shall determine necessary or desirable in assisting the department to carry out effectively the authority, functions, powers, and duties conferred and imposed upon it by this subchapter.

(b) However, the salaries of regular employees shall be governed by the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq. and by the provisions of the Regular Salary Procedures and Restrictions Act, § 21-5-101.

(c) The Director of the Arkansas Museum and Cultural Center shall be employed by the Director of the Department of Parks and Tourism.

History. Acts 1971, No. 515, § 11; 1979, No. 832, § 9; A.S.A. 1947, § 6-1211; Acts 1991, No. 343, § 3(b).

SUBCHAPTER 4 — MUSEUM OF NATURAL RESOURCES

SECTION.

- 13-5-401. Museum established.
- 13-5-402. Functions and duties.
- 13-5-403. Museum site.

SECTION.

- 13-5-404. Arkansas Museum of Natural Resources Advisory Committee.

Cross References. Taxes levied for benefit of oil museum, § 26-58-301 et seq.

Preambles. Acts 1979, No. 832 contained a preamble which read: "Whereas, museums preserve our heritage for the benefit, enjoyment, and education of the citizens of all ages and from every community in Arkansas; and

"Whereas, museums are unique cultural resources through the preservation, exhibition, and documentation of historically, scientifically, and artistically significant facts and artifacts; and

"Whereas, museums provide a unique educational tool which can directly supplement the state's educational system

through demonstrating the use and significance of said artifacts;

"Now therefore...."

Effective Dates. Acts 1977, No. 310, § 6: Feb. 28, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas is a major oil producing state and was in the center of the oil boom shortly after World War I; that the oil resources of the state and the country are declining and may become a thing of the past; that there is a treasure of sites and equipment of the type used for oil and gas production in the early oil boom days; that such equipment and sites should be preserved and properly displayed for future generations, as

part of the developing history of Arkansas; and that this act is designed to provide for preserving such equipment and sites and should be given effect as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 832, § 15: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an immediate need to establish Arkansas Museum Services and transfer the Des Arc Archeological Center, the Museum and Cultural Commission and the Arkansas Oil Museum to the Museum Services Division of the Department of Parks and Tourism so as to ensure the preservation of, the state's heritage and to assist, promote, and advance the purposes of the museums throughout Arkansas. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from July 1, 1979."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-5-401. Museum established.

The State Parks Division of the Department of Parks and Tourism is authorized and directed to establish a state historical museum in Union County, to be known and operated as the "Arkansas Museum of Natural Resources".

History. Acts 1977, No. 310, § 1; 1979, No. 832, § 10; A.S.A. 1947, § 53-1201; Acts 1997, No. 383, § 1; 2001, No. 802, § 4.

A.C.R.C. Notes. Acts 2001, No. 802, § 12, provided: "All powers, duties, and functions of the Museum Services Division of the Department of Parks and Tourism are hereby transferred to the State Parks Division of the Department of Parks and Tourism."

Publisher's Notes. Acts 1979, No. 832, § 10, as amended, provided, in part, that all powers, functions, and duties of the Office of Arkansas Arts and Humanities regarding the Arkansas Oil and Brine

Museum were transferred to the Department of Parks and Tourism, Museum Services Division, by a type 2 transfer as provided in § 25-2-105. All records, files, equipment, supplies, and funds held by the Office of Arkansas Arts and Humanities in connection with the Arkansas Oil and Brine Museum were transferred to the Department of Parks and Tourism, Museum Services Division. The same transfers of powers and property were provided for in Acts 1979, No. 207, § 4.

Amendments. The 2001 amendment substituted "State Parks" for "Arkansas Museum Services".

13-5-402. Functions and duties.

(a) The Arkansas Museum of Natural Resources shall be developed and operated by the State Parks Division of the Department of Parks and Tourism and shall be devoted primarily to the acquisition, cataloging, and display of machinery, equipment, and materials used in the oil boom in Arkansas.

(b) In addition, the museum shall solicit, purchase, or accept donations of maps, core drilling samples, and other records of geological or historical value to be made available to the public as a source of historical information concerning the geology and technology of the oil industry in this state.

History. Acts 1977, No. 310, § 2; 1979, No. 832, § 11; A.S.A. 1947, § 53-1202; Acts 1997, No. 383, § 2; 2001, No. 802, § 5.

substituted "State Parks" for "Arkansas Museum Services" in (a); and, in (b), substituted "museum" for "Arkansas Museum of Natural Resources", and deleted a comma following "value".

Amendments. The 2001 amendment

13-5-403. Museum site.

The Arkansas Museum of Natural Resources shall be established at a site to be approved by the State Parks Division of the Department of Parks and Tourism, with the lands therefor, which shall consist of not fewer than five (5) acres, to be donated without cost to the State of Arkansas.

History. Acts 1977, No. 310, § 1; 1979, No. 832, § 10; 1985, No. 560, § 1; A.S.A. 1947, § 53-1201; Acts 1997, No. 383, § 3; 2001, No. 802, § 6.

substituted "State Parks Division of the Department of Parks and Tourism" for "Arkansas Museum Services Division", and substituted "fewer" for "less".

Amendments. The 2001 amendment

13-5-404. Arkansas Museum of Natural Resources Advisory Committee.

(a) The Governor shall establish an Arkansas Museum of Natural Resources Advisory Committee, to consist of fifteen (15) members, appointed by the Governor, who shall serve in an advisory capacity to the State Parks Division of the Department of Parks and Tourism and the Director of the Department of Parks and Tourism.

(b)(1) At least one-half (½) of the members shall be residents of oil or brine-producing counties of South Arkansas.

(2) All members shall be appointed for terms of five (5) years.

(3) All vacancies on the committee shall be filled by appointment by the Governor.

(c)(1) The members shall serve without pay.

(2) The division is authorized to reimburse the committee members for expenses in accordance with § 25-16-901 et seq.

(d)(1) The committee shall advise the division in the establishment of policies and procedures for the development and operation of the Arkansas Museum of Natural Resources. However, final authority for

all matters relating to the development and operation of the museum shall rest with the Director of the Department of Parks and Tourism.

(2) Under the supervision of the Director of the Arkansas Museum of Natural Resources and approval of the Director of the State Parks Division of the Department of Parks and Tourism, the committee shall develop and coordinate efforts to encourage gifts or donations to the museum of old records, maps, drawings, core samples, and other memorabilia to be accessioned, curated, and conserved by the museum for the use and benefit of students, scientists, and the public and for research into the early oil boom history of Arkansas.

History. Acts 1977, No. 310, § 3; 1979, No. 832, § 12; 1985, No. 802, § 1; A.S.A. 1947, § 53-1203; Acts 1997, No. 250, § 78; 1997, No. 383, § 4; 2001, No. 802, § 7.

Publisher's Notes. The terms of the members of the Arkansas Museum of Natural Resources Advisory Committee are arranged so that three terms expire every year.

Amendments. The 2001 amendment substituted "State Parks Division of the Department of Parks and Tourism" for "Arkansas Museum Services Division" in (a); and in (d)(2), inserted "approval of", and substituted "State Parks Division of the Department of Parks and Tourism" for "Arkansas Museum Services Division".

SUBCHAPTER 5 — COUNTY MUSEUMS

SECTION.

13-5-501. Establishment.

13-5-502. Museum commissions — Members.

13-5-503. Commissions' powers and duties.

13-5-504. Funds for construction and maintenance.

SECTION.

13-5-505. Des Arc Archeological Museum — Transfer to and assumption of ownership by Prairie County.

CASE NOTES

Construction.

Designation of county building as a museum was not an illegal exaction since § 14-14-1102(b)(3) and Ark. Const. Amend. 55, § 3, provide that the county judge is the custodian of county property and is therefore authorized to determine

how county property shall be used; moreover, this subchapter and § 14-14-802(b)(2)(C)(v) authorize the county to provide for a county museum. *Haynes v. Faulkner County*, 326 Ark. 557, 932 S.W.2d 328 (1996).

13-5-501. Establishment.

(a) The quorum courts of the respective counties of this state are authorized, by ordinance approved by a majority of the members of the quorum court, to establish a county museum, to be under the direction of a county museum commission as provided in this subchapter.

(b)(1) The provisions of this subchapter shall not affect the county

museum of any county which, on July 6, 1977, had established and was operating a county museum.

(2) However, the quorum court of any such county may elect to place the operation of the museum under a county museum commission as authorized in this subchapter.

History. Acts 1977, No. 247, § 1; A.S.A. 1947, § 17-1901.

Cross References. County boards, establishment, § 14-14-701 et seq.

13-5-502. Museum commissions — Members.

(a)(1) In those counties in which the quorum court shall elect to establish a county museum under the provisions of this subchapter, the museum shall be under the direct management and control of a county museum commission, which shall consist of three (3), six (6), or nine (9) members to be appointed by the county judge, subject to confirmation and approval of the quorum court.

(2)(A) The size of the commission shall be determined by the quorum court in collaboration with the museum director and the chair of the commission if they exist at the time of the determination.

(B) The determination of size shall be made considering the size of the museum and the population of the county.

(b)(1) The county judge shall specify, at the time of appointment, the respective terms of the first members appointed to the commission in such a manner that the terms of one (1), two (2), or three (3) members shall expire on January 1 of the year next following the appointment of that member, and the remaining members shall be appointed in such a manner that the term of one (1) member shall expire on January 1 of each year thereafter.

(2) Successor members shall be appointed for three-year staggered terms and shall serve until their successors are appointed and qualified.

(c) If any vacancy shall occur on the commission, the vacancy shall be filled by appointment for the unexpired portion of the term, in the same manner as provided for the initial appointment.

(d) Members of the commission shall serve without pay.

(e) The commission shall elect one of its members as chair and shall also elect such other officers as the commission may deem necessary, from time to time.

History. Acts 1977, No. 247, § 2; A.S.A. 1947, § 17-1902; Acts 1999, No. 1372, § 1.

Amendments. The 1999 amendment, in (a), substituted “consist of three (3), six (6), or nine (9) members” for “consist of seven (7) members” and added the last

two sentences; and, in (b), substituted “terms of one (1), two (2), or three (3) members” for “term of one (1) member” and substituted “three-year” for “seven-year.”

13-5-503. Commissions’ powers and duties.

County museum commissions established under the provisions of this subchapter shall have the following powers and duties:

(1) To buy, lease, lend, acquire, and own real and personal property required in the housing and operation of the county museum;

(2) To accept gifts, grants, or donations of real and personal property from the federal government, the State of Arkansas, and from other public or private groups or individuals, to be used for the purposes of this subchapter;

(3) To receive and expend funds appropriated by the General Assembly for county museum purposes;

(4) To acquire, preserve, and display items of historical or archeological interest;

(5) To enter into agreements with other counties, municipalities, the state or federal government, or any agency or instrumentality thereof, or with any private museum or groups or persons to exchange or loan items of historical or archeological interest;

(6) To enter into agreements with the Arkansas History Commission, the Department of Arkansas Heritage, and other public and private agencies or persons, for the purpose of sharing services and facilities, with the view that the historical and cultural resources of this state may be coordinated at the county and state levels for the benefit of the public of this state;

(7) To enter into cooperative agreements under the Interlocal Cooperation Act, § 25-20-101 et seq., with one (1) or more adjoining counties to form a joint or regional museum, and, in those agreements, to establish the governing organization and procedures for the operation of the joint or regional museum, including costs, financial agreements, and contributions for the operation of and sharing in the cost of the operation of the joint or regional museum;

(8) To promulgate reasonable rules and regulations for the operation of the museum, including the establishment, if deemed necessary, of reasonable admission charges to assist in defraying the cost of operating the museum;

(9) To employ necessary personnel required in the maintenance and operation of the museum; and

(10) To do all other things necessary to accomplish the purposes of this subchapter.

History. Acts 1977, No. 247, § 3;
A.S.A. 1947, § 17-1903.

13-5-504. Funds for construction and maintenance.

County quorum courts are authorized to appropriate county funds to defray the costs of, in whole or in part, the construction, maintenance, and operation of the county museum.

History. Acts 1977, No. 247, § 4;
A.S.A. 1947, § 17-1904.

13-5-505. Des Arc Archeological Museum — Transfer to and assumption of ownership by Prairie County.

(a) In the event the Prairie County Quorum Court shall establish a county museum and shall, in the ordinance establishing the county museum, elect to take over the ownership, management, and operation of the Des Arc Archeological Museum, the Department of Parks and Tourism is authorized and directed to convey to the Prairie County Museum all rights, title, and interest of the State of Arkansas in the Des Arc Archeological Museum, to be thereafter operated, maintained, and improved by Prairie County as a part of the Prairie County Museum.

(b) Any funds appropriated to the department by the General Assembly for the Des Arc Archeological Museum shall be remitted to the Prairie County Museum Commission on or before the fifteenth day after the beginning of each fiscal year for which the funds are appropriated and available.

History. Acts 1977, No. 247, § 5;
A.S.A. 1947, § 17-1905.

SUBCHAPTER 6 — ARKANSAS POST MUSEUM

SECTION.

13-5-601. Authorization.

13-5-602. Functions and duties.

13-5-603. Arkansas Post Museum Advisory Committee — Members.

SECTION.

13-5-604. Arkansas Post Museum Advisory Committee — Duties.

Effective Dates. Acts 1989, No. 482, § 3: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the government of Arkansas County has offered to the state an established and operating museum that focuses on the territorial development of Arkansas; that this act provides for the establishment of a state museum on that site; and that for the effective administration of this act, the act should become effective July 1, 1989. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1989."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 estab-

lished the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-5-601. Authorization.

The State Parks Division of the Department of Parks and Tourism is authorized and directed to develop and operate a state historical museum in Arkansas County to be known and operated as the "Arkansas Post Museum".

History. Acts 1989, No. 482, § 1; 2001, No. 802, § 8.

A.C.R.C. Notes. Acts 2001, No. 802, § 12, provided: "All powers, duties, and functions of the Museum Services Division of the Department of Parks and Tourism are hereby transferred to the State Parks Division of the Department of Parks and Tourism."

Publisher's Notes. Acts 1989, No. 482, § 1, provided, in part, that the museum

shall be established at the site of the existing Arkansas Post County Museum, with the buildings, land, collections, and all operational supplies and equipment to be donated without cost to the Historical Resources and Museum Services Section of the Parks Division of the Department of Parks and Tourism.

Amendments. The 2001 amendment substituted "State Parks" for "Arkansas Museum Services".

13-5-602. Functions and duties.

(a) The Arkansas Post Museum shall be developed and operated by the State Parks Division of the Department of Parks and Tourism and shall be devoted primarily to the acquisition, cataloging, and display of objects or materials which tell the story of the territorial settlement and development of Arkansas as a state and its relationship to the settlement of the Lower Mississippi Valley.

(b) With the approval of the Director of the State Parks Division of the Department of Parks and Tourism, the museum shall solicit, purchase, or accept donations of objects or materials of historical value to be made available to the public as a source of historical information concerning the territorial development and settlement of Arkansas.

History. Acts 1989, No. 482, § 1; 2001, No. 802, § 9.

Amendments. The 2001 amendment substituted "State Parks" for "Arkansas Museum Services" in (a); and in (b), inserted "With the approval of the Director

of the State Parks Division of the Department of Parks and Tourism", substituted "museum" for "Arkansas Post Museum", and deleted "with the approval of the Director of the State Parks Division" from the end.

13-5-603. Arkansas Post Museum Advisory Committee — Members.

(a) The Governor shall establish the Arkansas Post Museum Advisory Committee, to consist of not fewer than seven (7) nor more than nine (9) members as determined by the Governor.

(b)(1) All members shall be appointed for terms of five (5) years.

(2) All vacancies on the committee shall be filled by appointment by the Governor.

(c) At least one (1) of the members of the committee shall be a historian by profession.

(d)(1) The members of the committee shall serve without pay.

(2) The State Parks Division of the Department of Parks and Tourism is authorized to reimburse the committee members for expenses in accordance with § 25-16-901 et seq.

History. Acts 1989, No. 482, § 1; 1997, No. 250, § 79; 2001, No. 802, § 10.

Publisher's Notes. Acts 1989, No. 482, § 1, provided, in part: "The first members appointed to the committee shall draw lots to determine their respective terms. Two (2) of the members shall serve a term of five (5) years; two (2) shall serve a term of four (4) years; one (1) shall serve a term of three (3) years; one (1) shall serve a

term of two (2) years; and one (1) shall serve a term of one (1) year. All successive members shall be appointed for terms of five (5) years."

Amendments. The 2001 amendment deleted "advisory" preceding "committee" in (d)(1); and substituted "State Parks Division of the Department of Parks and Tourism" for "Arkansas Museum Services Division" in (d)(2).

13-5-604. Arkansas Post Museum Advisory Committee — Duties.

(a)(1) The members of the Arkansas Post Museum Advisory Committee shall serve in an advisory capacity to the State Parks Division of the Department of Parks and Tourism in the establishment of policies and procedures for the development and operation of the Arkansas Post Museum.

(2) However, final authority for all matters relating to the development and operation of the museum shall rest with the Director of the Department of Parks and Tourism.

(b) The committee shall develop and coordinate efforts to encourage gifts to the museum, under the supervision of the Director of the Arkansas Post Museum and with the approval of the Director of the State Parks Division of the Department of Parks and Tourism.

History. Acts 1989, No. 482, § 1; 2001, No. 802, § 11.

Amendments. The 2001 amendment, in (a) substituted "State Parks" for "Arkansas Museum Services" and substituted "museum" for "Arkansas Post Museum" in

the second sentence; and in (b), deleted "advisory" preceding "committee", substituted "museum" for "Arkansas Post Museum" and added "under the supervision ... of Parks and Tourism."

SUBCHAPTER 7 — DELTA CULTURAL CENTER

SECTION.

- 13-5-701. Intent.
- 13-5-702. Definitions.
- 13-5-703. Establishment.
- 13-5-704. Delta Cultural Center Policy Advisory Board.

SECTION.

- 13-5-705. Delta Cultural Center National Advisory Board.
- 13-5-706. Powers.

Effective Dates. Acts 1989, No. 109, § 7: Feb. 20, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assem-

bly that Arkansas is blessed with a diverse set of cultures, and that the Mississippi Delta is one of the most depressed areas in Arkansas. In order to preserve

the heritage of the Delta as well as to capitalize on an abundant opportunity for tourism development in Eastern Arkansas, Arkansas should proceed with plans to develop a multi-state historic, cultural, and performing arts center at Helena. This Act should become effective immediately to provide for the proper administration of this program. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards

and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-5-701. Intent.

(a)(1) The development of the Delta was marked by the diversity of ethnic groups who were interdependent within the agricultural economy. Interpretation of the development of this area is important both to understanding the past and its effects on the future and to the economic development of the area through increased tourism.

(2) No facility now exists to interpret this vital portion of southern Delta agricultural culture. The establishment of the Delta Cultural Center will fill this void.

(b) The center will establish a resource to study, preserve, perpetuate, interpret, and present the rich cultural heritage representative of a rural Mississippi River Delta community whose economic dependence on agriculture fostered its development.

History. Acts 1989, No. 109, § 1.

13-5-702. Definitions.

For the purposes of this subchapter:

(1) "Board" means the Delta Cultural Center Policy Advisory Board appointed by the Governor;

(2) "Center" means the Delta Cultural Center;

(3) "Center director" means the Director of the Delta Cultural Center;

(4) "Department" means the Department of Arkansas Heritage;

(5) "Director" means the Director of the Department of Arkansas Heritage; and

(6) "National board" means the national advisory board appointed by

the Governor to broaden the perspective of the center's activities and programming.

History. Acts 1989, No. 109, § 2.

13-5-703. Establishment.

(a)(1) There is established the Delta Cultural Center which shall be a division of the Department of Arkansas Heritage. The center shall be located in Helena.

(2) The Director of the Department of Arkansas Heritage, with the advice and consent of the Governor, shall appoint the Director of the Delta Cultural Center. All other employees of the center shall be employed by and serve at the pleasure of the Director of the Department of Arkansas Heritage.

(b)(1) The center shall operate a program of temporary and permanent exhibits, a library and resource center, and live performances and shall provide information on related activities in other parts of the Delta region.

(2) The attraction of visitors to the Delta shall be a major goal of the center.

(c)(1) All budgeting, purchasing, and related management functions of the center shall be performed under the direction and supervision of the Director of the Department of Arkansas Heritage.

(2) The Director of the Department of Arkansas Heritage, after seeking the advice of the Delta Cultural Center Policy Advisory Board, shall promulgate any rules and regulations necessary for the implementation of this subchapter.

History. Acts 1989, No. 109, § 3.

13-5-704. Delta Cultural Center Policy Advisory Board.

(a) There is created the Delta Cultural Center Policy Advisory Board, which shall advise the Director of the Department of Arkansas Heritage and staff of the Delta Cultural Center on:

- (1) The development of permanent and temporary exhibits;
- (2) A plan for the acquisition of resource materials; and
- (3) The development of educational and other programming.

(b)(1) The Delta Cultural Center Policy Advisory Board shall consist of eleven (11) members.

(2)(A) The members shall be appointed by the Governor. The members appointed by the Governor shall be subject to confirmation by the Senate. The Governor shall make the appointments in such a manner that each race or ethnic group having a significant presence in the Delta region shall be adequately represented on the Delta Cultural Center Policy Advisory Board.

(B) The Delta Cultural Center Policy Advisory Board members to be appointed by the Governor shall be:

- (i) Two (2) residents of Phillips County who have exhibited an interest in the culture and heritage of the Delta;
 - (ii) A Delta blues musician;
 - (iii) Two (2) members to serve as academic advisors who shall be training in the field of Delta folklore, history, or a related field;
 - (iv) A member of the Board of the Arkansas Endowment for the Humanities;
 - (v) Three (3) members at large; and
 - (vi) Two (2) members as representatives of Main Street Helena.
- (3) The Delta Cultural Center Policy Advisory Board shall meet at least quarterly. Special meetings may be called by the chair or a majority of the Delta Cultural Center Policy Advisory Board.
- (c)(1) The members of the Delta Cultural Center Policy Advisory Board appointed by the Governor shall serve for three-year terms.
- (2) No member of the Delta Cultural Center Policy Advisory Board shall be eligible for appointment to more than two (2) consecutive full terms.
- (d) The chair will be elected by members for a one-year term.
- (e) Any vacancy in the membership of the Delta Cultural Center Policy Advisory Board other than by the expiration of the term of office shall be filled by the Governor for the balance of the term of the membership that became vacant.
- (f) The members of the Delta Cultural Center Policy Advisory Board shall receive no compensation for their services, but they may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1989, No. 109, § 4; 1997, No. 250, § 80; 1999, No. 1074, § 1; 2001, No. 1260, § 1.

Publisher's Notes. Acts 1989, No. 109, § 4, provided, in part, that, in making initial appointments to the board, the Governor shall designate three members to serve one-year terms, three members to serve two-year terms, and three members to serve three-year terms; that initial appointees who are appointed for less than a three-year term may be eligible for appointment to two full terms; and that the first chairman of the board will be appointed by the Governor for a one-year term.

Amendments. The 1999 amendment redesignated (b); substituted "nine (9) members" for "eleven (11) members" in (b)(1); substituted "The" for "Nine (9)" in (b)(2)(A); deleted former (b)(2)(B); and made stylistic changes.

The 2001 amendment redesignated former (a) as present (a)(1)-(3) and made related changes; substituted "for the acquisition" for "for aquisition" in (a)(2); substituted "eleven (11)" for "nine (9)" in (b)(1); added (b)(2)(B)(vi); and made minor stylistic changes throughout.

13-5-705. Delta Cultural Center National Advisory Board.

(a) There is created the Delta Cultural Center National Advisory Board which shall advise the Delta Cultural Center Policy Advisory Board and the Delta Cultural Center on placing the center's activities within the broad context of the history and development of the Mississippi River Delta.

(b)(1) The national Delta Cultural Center National Advisory Board will be composed of a minimum of fifteen (15) and a maximum of

twenty-five (25) members appointed by the Governor for five-year terms.

(2) The members shall have backgrounds in the humanities, folklore, history, and other disciplines relevant to the work of the center.

(c) The national Delta Cultural Center National Advisory Board shall meet at least annually.

History. Acts 1989, No. 109, § 4.

13-5-706. Powers.

(a) The Delta Cultural Center shall have the power to:

(1) Enter into contracts for the purchase, construction, lease, or other acquisition of real property to house the center and to acquire or construct necessary support facilities, including, but not limited to, overnight accommodations for visitors;

(2) Enter into contracts to purchase or lease personal property for use as exhibits or for use as research material related to the culture of the Delta; and

(3) Enter into professional service contracts with appropriate professionals to assist in the establishment of the center and the development and operation of the center's programs and activities.

(b) The center shall have the authority to accept gifts of real or personal property and money.

(c)(1) The center shall have the authority to set fees related to the programs and services offered by the center, including, but not limited to, admission fees.

(2) Income generated by fees shall be cash funds of the center to be used solely for the support of the center. Fee income shall be deposited in a bank account but shall be subject to appropriation by the General Assembly.

(d)(1) The center may request the assistance of the Department of Parks and Tourism and any other appropriate state agency in establishing and operating the center and its programs.

(2) The director of any state agency requested to assist in the establishment and operation of the center shall, within the limits of available personnel and resources, provide such assistance.

History. Acts 1989, No. 109, § 5.

SUBCHAPTER 8 — ARKANSAS COTTON MUSEUM

SECTION.

13-5-801. Arkansas Cotton Museum established.

SECTION.

13-5-802. Functions and duties.

13-5-801. Arkansas Cotton Museum established.

The Department of Parks and Tourism is authorized to coordinate the establishment of an historical museum in Lee County, to be known and

operated as the "Arkansas Cotton Museum". The museum shall be established in association with the University of Arkansas Agricultural Experimental Station in Lee County.

History. Acts 1999, No. 1121, § 1.

13-5-802. Functions and duties.

(a) The Arkansas Cotton Museum shall be devoted primarily to the acquisition, cataloging, and display of machinery, equipment, and materials used in cotton production in Arkansas.

(b) In addition, the museum may purchase or accept donations of items and records of historical value, to be made available to the public as a source of historical information concerning the cotton industry in this state.

History. Acts 1999, No. 1121, § 2.

SUBCHAPTER 9 — MOSAIC TEMPLARS OF AMERICA CENTER FOR AFRICAN-AMERICAN CULTURE AND BUSINESS ENTERPRISE

SECTION.

13-5-901. Definitions.

13-5-902. Establishment — Administration.

SECTION.

13-5-903. Advisory board.

13-5-904. Powers of center.

13-5-901. Definitions.

For the purposes of this subchapter:

(1) "Board" means the Mosaic Templars of America Center for African-American Culture and Business Enterprise Advisory Board created by this subchapter;

(2) "Center" means the Mosaic Templars of America Center for African-American Culture and Business Enterprise created by this subchapter;

(3) "Center director" means the Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise;

(4) "Department" means the Department of Arkansas Heritage; and

(5) "Director" means the Director of the Department of Arkansas Heritage.

History. Acts 2001, No. 1176, § 1.

13-5-902. Establishment — Administration.

(a)(1) There is established the Mosaic Templars of America Center for African-American Culture and Business Enterprise which shall be a division of the Department of Arkansas Heritage.

(2)(A) The Director of the Department of Arkansas Heritage, with the advice and consent of the Governor, shall appoint the Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise.

(B) All other employees of the center shall be employed by and serve at the pleasure of the Director of the Department of Arkansas Heritage in compliance with state law.

(b) The center shall operate a program of temporary and permanent exhibits, a library and resource center, and live performances. The attraction of visitors shall be a major goal of the center.

(c)(1) All budgeting, purchasing, and related management functions of the center shall be performed under the direction and supervision of the Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise in compliance with state law.

(2) The Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise, after seeking the advice of the Mosaic Templars of America Center for African-American Culture and Business Enterprise Advisory Board, shall promulgate any rules and regulations necessary for the implementation of this subchapter.

History. Acts 2001, No. 1176, § 2.

13-5-903. Advisory board.

(a) There is created the Mosaic Templars of America Center for African-American Culture and Business Enterprise Advisory Board which shall advise the Director of the Mosaic Templars of America Center for African-American Culture and Business Enterprise and staff of the Mosaic Templars of America Center for African-American Culture and Business Enterprise on the development of permanent and temporary exhibits, a plan for acquisition of resource materials, and development of educational and other programming.

(b)(1) The board shall consist of nine (9) members, with at least one (1) from each congressional district, appointed as follows:

(A) Three (3) members shall be appointed by the Speaker of the House of Representatives;

(B) Three (3) members shall be appointed by the President Pro Tempore of the Senate; and

(C) Three (3) members shall be appointed by the Governor.

(2)(A) The terms of office of the initial members of the board shall be determined by lot so that two (2) members serve an initial one-year term, two (2) members serve an initial two-year term, two (2) members serve an initial three-year term, and two (2) members serve an initial four-year term.

(B) Successor members shall serve four-year terms.

(3) No member shall serve more than two (2) four-year terms.

(c) The board shall meet at least quarterly. Special meetings may be called by the chair or a majority of the board.

(d) The chair will be elected by members for a one-year term.

(e) Any vacancy in the membership of the board shall be filled by the appointing authority.

(f) The members of the board shall receive no compensation for their services, but they may receive expense reimbursement in accordance with § 25-16-902.

History. Acts 2001, No. 1176, § 3.

13-5-904. Powers of center.

(a) The Mosaic Templars of America Center for African-American Culture and Business Enterprise shall have the power to enter into:

(1) Contracts for the purchase, construction, lease, or other acquisition of real property to house the center and to acquire or construct necessary support facilities;

(2) Contracts to purchase or lease personal property for use as exhibits or for use as research material; and

(3) Professional service contracts with appropriate professionals to assist in the establishment of the center and the development and operation of the center's programs and activities.

(b) The center shall have the authority to accept gifts of real or personal property and money.

(c)(1) The center shall have the authority to set fees related to the programs and services offered by the center, including, but not limited to, admission fees.

(2)(A) Income generated by fees shall be cash funds of the center to be used solely for the support of the center.

(B) Fee income shall be deposited in a bank account but shall be subject to appropriation by the General Assembly.

(d) The center may request the assistance of other appropriate state agencies in establishing and operating the center and its programs.

History. Acts 2001, No. 1176, § 4.

CHAPTER 6

ARCHEOLOGICAL RESEARCH

SUBCHAPTER

1. GENERAL PROVISIONS. [RESERVED.]

2. ARCHEOLOGICAL SURVEY.

3. SITES.

4. HUMAN SKELETAL BURIAL REMAINS.

SUBCHAPTER 1 — GENERAL PROVISIONS

[Reserved]

SUBCHAPTER 2 — ARCHEOLOGICAL SURVEY

SECTION.

- 13-6-201. Arkansas Archeological Survey established.
- 13-6-202. Survey's functions.
- 13-6-203. Directory of Survey.
- 13-6-204. State Archeologist and other survey personnel.
- 13-6-205. Appropriations — Disposition of funds.
- 13-6-206. Duties of University of Arkansas.
- 13-6-207. Housing for survey.
- 13-6-208. Participation in program — Contracts for and assignment of survey archeologists and personnel.

SECTION.

- 13-6-209. Cooperation of state and local entities.
- 13-6-210. Salvage work — Cooperative agreements.
- 13-6-211. Grants, donations, etc.
- 13-6-212. Repositories for archeological evidence.
- 13-6-213. Artifacts, fossils, and relics.
- 13-6-214. Responsibility for objects obtained — Loans.
- 13-6-215. Programs of Arkansas Archeological Society.
- 13-6-216. Annual review and evaluation.

Preambles. Acts 1959, No. 82 contained a preamble which read: "Whereas, Arkansas is a state rich in archeological resources which, if properly excavated, catalogued and preserved, can add immeasurably to the knowledge of our history and our heritage; and

"Whereas, the preservation of our antiquities is of value and interest not only to the citizens of Arkansas but to persons from other states who visit Arkansas as well; and

"Whereas, many historic sites and archeological treasures are either unsurveyed and undiscovered, due to lack of a coordinated and adequate program, or are, in fact, in danger of being lost to posterity by reason of unscientific exploitation, highway construction, flooding from reservoirs in connection with building of dams, and by other means:

"Now therefore, this legislative body recognizes the need for a statewide program of archeological research and enacts this measure for the achievement of that purpose."

Effective Dates. Acts 1959, No. 82, § 10: Feb. 20, 1959. Emergency clause provided: "It is hereby determined by the General Assembly that archeological materials, sites, mounds, and relics are being lost through thoughtless destruction by

untrained excavators as well as through the construction of public dams and highways; that early preventive action is required and that immediate educational efforts should be made in order that the heritage of an earlier age not be lost; that a comprehensive state program of archeology will result in findings which will be of interest and value not only to the citizens of this state but to those who visit Arkansas as well; that the best method of accomplishing these objectives and preventing the losses referred to is by creation of a state program of archeological research. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, safety, and welfare shall be in full force and effect from and after its passage and approval."

Acts 1967, No. 39, § 12: Feb. 6, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that archeological materials, sites, mounds and relics are being lost through thoughtless destruction by untrained excavators as well as through the construction of public dams and highways; that it is essential to the discovery and preservation of these priceless relics, artifacts and other archeological materials of prior cultures in Arkansas that the existing pro-

gram of archeological research and discovery be enlarged, broadened and expanded by the establishment of the Arkansas Archeological Survey and by the appointment of a skilled and qualified State Archeologist; that in order to accomplish these purposes, it is necessary that this act become effective immediately. Therefore, an emergency is hereby declared to exist and this act being necessary to the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 2003, No. 1638, § 19: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Ar-

kansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2003 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2003 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2003."

13-6-201. Arkansas Archeological Survey established.

The President of the University of Arkansas system is designated agent of the State of Arkansas for the purpose of conducting a program of archeological research as described in this subchapter which shall be referred to as the Arkansas Archeological Survey.

History. Acts 1959, No. 82, § 1; 1967, No. 39, § 1; A.S.A. 1947, §§ 9-1001, 9-1009.

Publisher's Notes. Acts 1967, No. 39, § 1, provided for the continuation and expansion of the program of archeological research and discovery established pursuant to Acts 1959, No. 82. The section further provided that its intent was to authorize and encourage all public institutions of higher learning in Arkansas to participate in the program. Section 10 of

that act provided that the provisions of the act were supplemental to Acts 1959, No. 82 and did not repeal or modify any provisions of the latter act except as specifically provided in the 1967 act.

Acts 1977, No. 741, § 1, provided for the transfer of the supervision and direction of the Arkansas Archeological Survey from the Board of Trustees of the University of Arkansas to the President of the University of Arkansas System.

13-6-202. Survey's functions.

The Arkansas Archeological Survey shall initiate, operate, and maintain a program in archeology which shall include, but not be limited to, the following areas of action:

(1) Excavation of archeological and historical sites, ruins, and mounds for the purpose of securing data and objects relating to early humans in Arkansas;

(2) Fundamental research in Arkansas archeology and encouragement of public cooperation in the preservation of Arkansas antiquities;

(3) Research in and study of anthropology, soil, geology, and related social and physical sciences, both prior to excavation and thereafter, in order to plan and aid in discovery of sites and artifacts and their proper assessment once discovered;

(4) Publication of findings in terms of their scientific, popular, and cultural values;

(5) Display and custodianship of relics, artifacts, sites, and other tangible results of the program; and

(6) Educational activities providing a stimulus to archeological efforts and the encouragement of archeological societies, parks, and museums.

History. Acts 1959, No. 82, § 2; 1967, No. 39, § 3; A.S.A. 1947, §§ 9-1002, 9-1011; Acts 1991, No. 274, § 1.

Publisher's Notes. As to supplemental nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

Cross References. Program of historic preservation, performance by Archeological Survey and Historic Preservation Program of the Department of Arkansas Heritage, § 13-7-105.

13-6-203. Directory of Survey.

(a) The President of the University of Arkansas shall appoint a Director of the Arkansas Archeological Survey who shall have a doctor of philosophy degree in anthropology with a specialization in archeology or the equivalent in training and experience who shall be responsible for the overall administration and coordination of the Arkansas Archeological Survey, and who shall serve at the pleasure of the president.

(b) The director shall perform the duties that may be set by the president and may be paid from funds appropriated for the survey.

History. Acts 1967, No. 39, § 2; A.S.A. 1947, § 9-1010; Acts 1991, No. 274, § 2.

A.C.R.C. Notes. Acts 2003, No. 1568, § 2 provided: "ARCHEOLOGICAL SURVEY CONTRACT. The Archeological Survey shall contract with the Arkansas Humanities Council to grant funds to local organizations and provide training and

assistance in historical research methods and the Arkansas Archeological Survey shall provide assistance in archeological methods, as needed."

Publisher's Notes. As to supplemental nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

13-6-204. State Archeologist and other survey personnel.

(1) The President of the University of Arkansas shall appoint a State Archeologist who shall have a doctor of philosophy degree in anthropology with a specialization in archeology, or the equivalent in training and experience, and such other full-time or part-time employees as may be required to carry on the program, all of whom shall possess such qualifications as may be prescribed by the president.

(2) The State Archeologist shall be a full-time employee of the Arkansas Archeological Survey.

(b) The personnel of the survey shall be deemed employees of the University of Arkansas.

History. Acts 1967, No. 39, §§ 2, 7; A.S.A. 1947, §§ 9-1010, 9-1015; Acts 1991, No. 274, § 3.

Publisher's Notes. As to supplemental nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

13-6-205. Appropriations — Disposition of funds.

(a) Funds appropriated for the Arkansas Archeological Survey shall be by specific appropriation separate and distinct from funds appropriated for the University of Arkansas and shall be used exclusively for the purposes of the survey.

(b) All expenditures of funds appropriated for the survey shall be made in accordance with and subject to the state purchasing laws, the state travel laws and regulations, and other laws and regulations applicable thereto.

(c) The survey is authorized to enter into contracts with and to receive and expend gifts, grants, or other funds from federal, private, or other sources to be used in furtherance of the program of the survey within the limitations of the maximum annual salary rates as set forth by law.

History. Acts 1967, No. 39, § 2; A.S.A. 1947, § 9-1010; Acts 2003, No. 1638, § 12.

Publisher's Notes. As to supplemental nature of Acts 1967, No. 39, see Publish-

er's Notes to § 13-6-201.

Amendments. The 2003 amendment added (c).

13-6-206. Duties of University of Arkansas.

(a) The University of Arkansas is to make available for study in connection with this program the holdings of its museum which contains the world's best and most extensive collection of Arkansas archeological material and the valuable collection of archeological and related literature held by its library.

(b) The cooperation of the University of Arkansas' personnel in other related fields of activity shall be extended to the program created by this subchapter.

(c) However, the University of Arkansas' responsibility to initiate, operate, and continue to maintain an archeological program exceeding the scope of its present operations in that field shall be and is made dependent upon the biennial appropriation of additional state funds for that purpose.

(d) All funds received from any source for this program shall be held by, expended by, and disbursed through regular University of Arkansas business channels, but these funds shall be used only in support of the activity described in this subchapter.

History. Acts 1959, No. 82, § 3; A.S.A. 1947, § 9-1003.

13-6-207. Housing for survey.

The University of Arkansas and cooperating institutions shall provide appropriate housing to the extent that it is available in the nature of laboratory and office space for Arkansas Archeological Survey personnel without cost to the survey.

History. Acts 1967, No. 39, § 7; A.S.A. 1947, § 9-1015.

tal nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

Publisher's Notes. As to supplement-

13-6-208. Participation in program — Contracts for and assignment of survey archeologists and personnel.

(a) All public institutions of higher learning in Arkansas desiring to participate in the program provided for in this subchapter may contract with the University of Arkansas for Arkansas Archeological Survey archeologists to be assigned to and in residence at the contracting institutions.

(b) Any institutions desiring to be assigned a survey archeologist-in-residence at the institutions shall agree to provide the university under contract an amount not less than the equivalent of twenty-five percent (25%) of the salary of the archeologist upon a nine-month basis.

(c) When a contract is entered into by the university and a cooperating institution, the survey archeologist may be assigned to and based at the cooperating institution for the contract period, which shall normally be twelve (12) months unless a shorter period is provided in the contract.

(d) During the portion of the survey archeologist's time contracted for by a cooperating institution, he or she may perform research, teaching, or other related functions as directed by the cooperating institution in accordance with the terms of the contract, provided these other functions shall not be such as to interfere with the effective performance of his or her duties as a survey archeologist.

(e) The university shall enter into contracts with cooperating institutions for the assignment of survey personnel to the extent that the assignments are consistent with the purposes and aims of the survey and insofar as funds and personnel permit the contracts to be made or renewed.

History. Acts 1967, No. 39, § 4; A.S.A. 1947, § 9-1012.

tal nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

Publisher's Notes. As to supplement-

13-6-209. Cooperation of state and local entities.

All other state agencies, departments, and institutions, as well as county and city officials, are directed to cooperate in the activities described in this subchapter in order that a statewide focus shall be given the implementation of the program created by this subchapter.

History. Acts 1959, No. 82, § 4; A.S.A. 1947, § 9-1004.

13-6-210. Salvage work — Cooperative agreements.

(a) In recognition of the fact that archeological materials and antiquities are destroyed or damaged in connection with the construction of

public works such as highways and dams, the program created by this subchapter shall include salvage work in advance of or coexistent with public construction and advice directed to the avoidance of waste of archeological sites and materials.

(b) Authority is granted to the University of Arkansas to cooperate with individuals and state and federal agencies in surveying and excavating archeological sites. Full power to contract with these persons or agencies relative to these matters is extended.

(c) The State Highway Commission is authorized and directed to enter into appropriate contracts and cooperative agreements with the university and the Federal Highway Administration and to expend funds, both state and federal, in aid of archeological salvage and archeological preservation on all or any part of the lands and rights-of-way now or coming into the commission's control in order that the beneficial purposes of this subchapter shall be achieved.

History. Acts 1959, No. 82, §§ 6, 7; Commission, powers and duties, § 27-65-107.
A.S.A. 1947, §§ 9-1006, 9-1007.

Cross References. State Highway

13-6-211. Grants, donations, etc.

(a) The President of the University of Arkansas System is authorized to accept grants, bequests, devises, gifts, and donations for purposes of a state program in archeological research and to expend them to that end.

(b) The president's full power to accept and hold title to interests in land for those purposes is recognized.

(c) The president is empowered to make a reasonable charge for publications and expend the proceeds for this program.

History. Acts 1959, No. 82, § 8; A.S.A. 1947, § 9-1008.

13-6-212. Repositories for archeological evidence.

(a) The Arkansas Archeological Survey shall serve as the repository for copies of all archeological field notes, photographs, publications, or other records obtained through the use of state funds by whatever agency.

(b) All archeological objects found through the efforts of the survey shall be deposited at the University of Arkansas Museum, provided, archeological objects obtained by survey archeologists while under contract to and assigned to a cooperating institution, upon request of the cooperating institution, may be assigned to the custody of the institution if appropriate and adequate safeguards are provided.

History. Acts 1967, No. 39, § 5; A.S.A. 1947, § 9-1013. tal nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

Publisher's Notes. As to supplement-

13-6-213. Artifacts, fossils, and relics.

(a) All artifacts, fossils, relics, and other personal property discovered, donated, or otherwise acquired in pursuance of this program shall be the property of the State of Arkansas held in trust by the University of Arkansas.

(b) The university shall, to the extent possible, make these items available for scientific use or public display by appropriate public bodies at places throughout the state.

(c) However, complete authority is granted to exchange and barter such items for other items deemed of equal value with persons, nonprofit organizations, and public agencies both within and without Arkansas, in order that representative collections may be assembled and that study and analysis be enhanced.

History. Acts 1959, No. 82, § 5; A.S.A. 1947, § 9-1005.

13-6-214. Responsibility for objects obtained — Loans.

(a) The Arkansas Archeological Survey shall hold title to and have primary responsibility for all archeological objects and materials obtained pursuant to this program or otherwise accruing to the survey.

(b) It shall be the responsibility of the Director of the Arkansas Archeological Survey to see that all archeological material is properly and adequately safeguarded and available at all reasonable times to interested scientists and to the public, insofar as funds and good scientific practices permit.

(c) Whenever it is consistent with good scientific practices and in the furtherance of the aims and purposes of the survey as stated in this subchapter, the director may approve of and permit the loan of objects and materials to a state museum in Arkansas, to educational or scientific institutions or organizations, or to other institutions or organizations for purposes of research or public education.

History. Acts 1967, No. 39, § 6; A.S.A. 1947, § 9-1014.

tal nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

Publisher's Notes. As to supplement-

13-6-215. Programs of Arkansas Archeological Society.

The Arkansas Archeological Survey is authorized to assist and support the programs of the Arkansas Archeological Society to the extent that the purposes and aims of the two coincide.

History. Acts 1967, No. 39, § 8; A.S.A. 1947, § 9-1016.

tal nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

Publisher's Notes. As to supplement-

13-6-216. Annual review and evaluation.

The Arkansas Archeological Society is requested to annually review and evaluate the programs and activities of the Arkansas Archeological Survey and to provide written reports of the evaluation to the Director of the Arkansas Archeological Survey, each state-supported institution of higher learning, and any other interested institutions and agencies that may request the reports.

History. Acts 1967, No. 39, § 9; A.S.A. 1947, § 9-1017.

Publisher's Notes. As to supplemental nature of Acts 1967, No. 39, see Publisher's Notes to § 13-6-201.

SUBCHAPTER 3 — SITES

SECTION.	SECTION.
13-6-301. Reservation of rights — Legislative intent.	13-6-305. Reservation of state lands from sale.
13-6-302. Definitions.	13-6-306. Archeological landmarks — Penalty for disturbing.
13-6-303. Penalties.	13-6-307. Trespass.
13-6-304. Cooperation by state and local entities.	13-6-308. Vandalism.

Preambles. Acts 1967, No. 58 contained a preamble which read: "Whereas, the public has an interest in preservation of all antiquities, historic ruins, sites, artifacts, and similar places and things for their scientific and historical information and value; and

"Whereas, the public has a right to the knowledge to be derived and gained from a scientific study of these materials; and

"Whereas, the most recent past has seen the neglect, desecration and destruction of sites and the removal without adequate records of archeological objects and artifacts with a resulting loss to our people of knowledge concerning their heritage; and

"Whereas, prehistoric and historic remains, sites, and objects of antiquity are rightfully and properly the subject of coordinated and organized activities exercised on behalf of the general welfare of the public as a whole in order that they may be preserved, studied, exhibited, and evaluated;

"Now therefore...."

Effective Dates. Acts 1967, No. 58, § 10: Feb. 9, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that valuable archeological materials, sites, mounds and relics are being lost through thoughtless destruction, neglect and desecration; that early preventive action is required in order that the heritage of an earlier age not be lost; that it is necessary to take immediate steps for the preservation, protection, excavation and evaluation of these artifacts and archeological sites so as to increase the available knowledge of prior cultures in Arkansas; and that only by the immediate passage of this act can these purposes be accomplished. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

13-6-301. Reservation of rights — Legislative intent.

(a)(1) The State of Arkansas reserves to itself the exclusive right and privilege of field archeology on sites owned or controlled by the state, its

agencies, departments, and institutions, in order to protect and preserve archeological and scientific information, matter, and objects.

(2) All information and objects deriving from state lands shall be utilized solely for scientific or public educational purposes and shall remain the property of the state.

(b)(1) It is a declaration and statement of legislative intent that field archeology on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this subchapter.

(2) Persons having knowledge of the location of archeological sites are encouraged to communicate the information to the Arkansas Archeological Survey.

History. Acts 1967, No. 58, § 2; A.S.A. 1947, § 8-802.

13-6-302. Definitions.

As used in this subchapter:

(1) "Artifacts" means all relics, specimens, or objects of an historical, prehistorical, archeological, or anthropological nature, which may be found above or below the surface of the earth and which have scientific or historic value as objects of antiquity, as aboriginal relics, or as archeological specimens;

(2) "Field archeology" means the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing subsurface objects or going on a site with that intent; and

(3) "Site" means all aboriginal mounds, forts, earthworks, village locations, burial grounds, historic or prehistoric ruins, mines, or caves, which are or may be the source of artifacts or any place where individual artifacts defined in this section, may be found.

History. Acts 1967, No. 58, § 1; A.S.A. 1947, § 8-801.

13-6-303. Penalties.

(a)(1) All acts expressly declared in this subchapter to be illegal, prohibited, or deemed misdemeanors shall, upon conviction of the person for engaging in the conduct thus proscribed, be punished as misdemeanors.

(2) The person guilty thereof shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or imprisoned in the city or county jail for not less than one (1) month nor more than six (6) months, or both.

(b) It is made the duty of the prosecuting attorney for the district wherein the offense is committed to prosecute alleged offenders to the full extent of the law.

History. Acts 1967, No. 58, § 8; A.S.A. 1947, § 8-808.

CASE NOTES

Cited: *Gazaway v. Pugh*, 69 Ark. App. 297, 12 S.W.3d 662 (2000).

13-6-304. Cooperation by state and local entities.

(a) All state agencies, departments, institutions, and commissions, as well as all counties and municipalities, shall cooperate fully with the Arkansas Archeological Survey in the preservation, protection, excavation, and evaluation of artifacts and sites.

(b) To that end, where any site or artifacts may be found or discovered on property owned or controlled by the state or by any county or municipality, the agency, bureau, commission, governmental subdivision, or county or municipality, having control over or owning the property or preparing to excavate or perform work upon the property or currently performing work of any type upon the property is urged to notify the survey of the discovery and location of the site or artifacts.

(c) Any state or local entity shall cooperate to the fullest extent practicable with the survey to preserve and prevent the destruction of the site or artifacts and to allow the survey to assist in, and effect, the removal of artifacts by means designed to preserve and permit the study and evaluation of the artifacts.

(d) The provisions of this subchapter shall be made known to contractors by the state agencies doing the contracting.

History. Acts 1967, No. 58, § 3; A.S.A. 1947, § 8-803.

13-6-305. Reservation of state lands from sale.

(a)(1) Upon written notice to the Commissioner of State Lands given by the Arkansas Archeological Survey, the Commissioner of State Lands shall reserve from sale any state lands, including lands forfeited to the state for nonpayment of taxes, on which sites or artifacts are located or may be found, as designated by the survey.

(2) However, the reservation of lands from sale may be confined to the actual location of the site or artifacts.

(b) When sites or artifacts have been explored, excavated, or otherwise examined to the extent desired by the survey, the survey shall then file with the Commissioner of State Lands a statement releasing the lands and permitting the sale of the lands.

History. Acts 1967, No. 58, § 5; A.S.A. 1947, § 8-805.

13-6-306. Archeological landmarks — Penalty for disturbing.

(a) An archeological site of significance to the scientific study or public representation of Arkansas' aboriginal past may be publicly designated by the Arkansas Archeological Survey as a "state archeological landmark".

(b) However, no sites shall be so designated without the express written consent of the state agency having jurisdiction over the land in question or, if it is on privately owned land, of the owner thereof.

(c) Once so designated, excavation for the purpose of recovery or the recovery of artifacts from such sites by persons other than the survey or its duly designated agents shall be a misdemeanor.

History. Acts 1967, No. 58, § 4; A.S.A. 1947, § 8-804.

13-6-307. Trespass.

It shall be deemed an act of trespass and a misdemeanor for any person, natural or corporate, to remove artifacts and antiquities of the kind described in this subchapter from the private land of any owner thereof without his permission being first obtained.

History. Acts 1967, No. 58, § 6; A.S.A. 1947, § 8-806.

13-6-308. Vandalism.

(a) In order that sites and artifacts on state-owned or controlled land shall be protected for the benefit of the public, it is made a misdemeanor for any person, natural or corporate, to write upon, carve upon, paint, deface, mutilate, destroy, or otherwise injure any objects of antiquity, artifacts, Indian painting, or sites.

(b) All such acts of vandalism shall be punished as misdemeanors according to the provisions of this subchapter.

History. Acts 1967, No. 58, § 7; A.S.A. 1947, § 8-807.

SUBCHAPTER 4 — HUMAN SKELETAL BURIAL REMAINS

SECTION.

13-6-401. Legislative intent.

13-6-402. Definitions.

13-6-403. State plan for the conservation of archeological resources in Arkansas.

13-6-404. Conveyance of exhumed remains.

SECTION.

13-6-405. Unclaimed remains.

13-6-406. Trade or collection of remains.

13-6-407. Display of remains.

13-6-408. Desecration of burial grounds and burial furniture.

13-6-409. Proof of violations.

Preambles. Acts 1991, No. 753 contained a preamble which read:

"Whereas, the state and its citizens have an obligation to protect from desecration all human skeletal burial remains and associated burial furniture including those from unmarked, unrecorded, abandoned, or unregistered graves, burial grounds, or cemeteries; and

"Whereas, the skeletal burial remains and associated burial furniture of many Native Americans, Europeans, Blacks, American settlers, and others were placed in burial grounds not presently known, recorded, or registered;

"Now therefore...."

13-6-401. Legislative intent.

(a) It is a declaration and statement of the General Assembly's intent that all human burials and human skeletal burial remains shall be accorded equal treatment and respect for human dignity without reference to their ethnic origins, cultural backgrounds, religious affiliations, or date of burial.

(b) The provisions of this subchapter shall apply to all human burials or human skeletal burial remains found on or in all public or private lands or waters of Arkansas.

History. Acts 1991, No. 753, § 3.

13-6-402. Definitions.

As used in this subchapter:

(1) "Artifacts" means arrowheads, other bone and stone tools, pottery, pottery fragments, china, metal objects or other material objects made by Native American settlers, or other residents of Arkansas, which were left or lost in or on the ground, except those items which were placed in direct association with human skeletal burial remains or burial furniture as defined in this subchapter;

(2) "Burial furniture" means any items which were placed with human remains at the time of burial or in apparent intentional association with the burial and would include burial markers, items of personal adornment, casket and casket hardware, stone and bone tools, pottery vessels, or other similar objects or materials;

(3) "Burial grounds" means any place where human skeletal remains are or have been buried;

(4) "Desecration" means the intentional, willful, or knowing removal or disturbance of human skeletal burial remains or burial furniture which was placed with a buried human body, or treating such human skeletal burial remains in an irreverent and contemptuous manner; and

(5) "Human skeletal burial remains" means the calcified portion of a human body which remains after the flesh has decomposed.

History. Acts 1991, No. 753, § 1.

13-6-403. State plan for the conservation of archeological resources in Arkansas.

(a) The public has a right to the knowledge to be derived and gained from the scientific study of human skeletal burial remains and burial furniture.

(b) Therefore, when justified by "A State Plan for the Conservation of Archeological Resources in Arkansas" as promulgated by the State Archeologist and the State Historic Preservation Officer, the investigation, excavation, removal, and analysis of human skeletal burial remains and burial furniture is authorized and, if done, must be carried out with the consent of the landowner and consultation with the appropriate tribe, if identifiable, and under the direction of archeologists employed by the state or the United States Government or by archeologists meeting the United States Department of Interior's professional qualifications standards found in the current Code of Federal Regulations.

History. Acts 1991, No. 753, § 7.

13-6-404. Conveyance of exhumed remains.

(a) If human skeletal burial remains are exhumed for relocation, then at the request of a direct descendant, that of a specific church, or that of a Native American tribal group recognized by the United States Government who can provide written or scientific documentation of such descent, or of direct church or tribal affiliation with the human skeletal burial remains, the human skeletal burial remains will be conveyed to such an individual or entity.

(b) By consultation with the groups mentioned in subsection (a) of this section, scientific studies may be undertaken.

History. Acts 1991, No. 753, § 8.

A.C.R.C. Notes. As enacted by Acts 1991, No. 753, § 8, subsection (a) began: "If, subsequent to the date of this act,".

Acts 1991, No. 753, § 8, was signed by the Governor on March 26, 1991, and became effective on July 15, 1991.

13-6-405. Unclaimed remains.

(a) If human skeletal burial remains are not claimed as set forth in § 13-6-404, the Arkansas Archeological Survey or a state-supported museum, or a museum accredited by the American Association of Museums, may serve as a depository for such skeletal remains as are required for scientific purposes.

(b) If not otherwise claimed as provided in this subchapter, skeletal burial remains shall be disposed of in accordance with existing laws, rules, and regulations for disposing of human remains.

History. Acts 1991, No. 753, § 9.

13-6-406. Trade or collection of remains.

(a) Anyone who knowingly buys, sells, or barter human skeletal burial remains or their associated burial furniture is committing a Class D felony for the first offense and a Class C felony on the second and subsequent offenses.

(b) Artifacts as defined in this subchapter and private collections legally acquired prior to July 15, 1991, are exempted from this section.

(c) Nothing in this subchapter prohibits the collecting of such artifacts by landowners or others who do so with the landowner's permission.

History. Acts 1991, No. 753, § 4; 1999, No. 1533, § 1.

Amendments. The 1999 amendment, in (a), substituted "Class D felony" for

"Class A misdemeanor" and "Class C felony" for "Class D felony."

Cross References. Fines, § 5-4-201. Imprisonment, § 5-4-401.

13-6-407. Display of remains.

Anyone who knowingly displays human skeletal burial remains for profit or to aid and abet a commercial enterprise is committing a Class C felony with each day of display being a separate offense.

History. Acts 1991, No. 753, § 5; 1999, No. 1533, § 2.

Amendments. The 1999 amendment substituted "Class C felony" for "Class B misdemeanor."

Cross References. Fines, § 5-4-201. Imprisonment, § 5-4-401.

13-6-408. Desecration of burial grounds and burial furniture.

(a) Anyone who intentionally or knowingly desecrates or permits desecration of a burial ground and associated burial furniture is committing on the first offense a Class D felony and on the second or subsequent offenses, a Class C felony.

(b) The presence in the ground of grave markers, caskets, or casket hardware creates a rebuttable presumption that these are burial furniture and of the existence or presence of a human burial ground.

(c) Exempted from this section is disturbance of human skeletal burial remains or burial furniture by landowners or agricultural tenants as a consequence of agricultural activity.

History. Acts 1991, No. 753, § 6; 1999, No. 1533, § 3.

Amendments. The 1999 amendment, in (a), substituted "Class D felony" for

"Class A misdemeanor" and "Class C felony" for "Class D felony."

Cross References. Fines, § 5-4-201. Imprisonment, § 5-4-401.

CASE NOTES

Cited: *Gazaway v. Pugh*, 69 Ark. App. 297, 12 S.W.3d 662 (2000).

13-6-409. Proof of violations.

The mere possession of items defined in § 13-6-402 does not create a presumption of a violation of this subchapter, but the duty shall remain upon the state to prove any violation of this subchapter.

History. Acts 1991, No. 753, § 2.

CHAPTER 7

HISTORIC PRESERVATION

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. OLD STATE HOUSE COMMISSION.
3. HISTORIC ARKANSAS MUSEUM COMMISSION.
4. PRAIRIE GROVE BATTLEFIELD COMMISSION.
5. HISTORIC PRESERVATION LOAN ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 13-7-101. Public policy.
- 13-7-102. Definitions.
- 13-7-103. Construction.
- 13-7-104. Administration of program.
- 13-7-105. Arkansas Archeological Survey to perform archeological functions.
- 13-7-106. Arkansas Historic Preservation Program — Powers and duties.

SECTION.

- 13-7-107. State Historic Preservation Officer — Appointment and duties.
- 13-7-108. Review committee — Powers and duties.
- 13-7-109. State Register of Historic Places.
- 13-7-110. Arkansas Historic Building Code authorized.

A.C.R.C. Notes. References to “this subchapter” in §§ 13-7-101 to 13-7-109 may not apply to § 13-7-110 which was enacted subsequently.

Preambles. Acts 1977, No. 480 contained a preamble which read: “Whereas, the historical and cultural heritage of Arkansas should be preserved as a living part of our community life, economic development, and social well-being in order to give a sense of orientation to all the citizens of Arkansas; and

“Whereas, the spirit and direction of the future of Arkansas are founded upon and reflected in its unique and historic past; and

“Now therefore....”

Effective Dates. Acts 1977, No. 480, § 14: Mar. 17, 1977. Emergency clause provided: “It is hereby found and determined by the General Assembly that it is desirable that the historical and cultural

heritage of the State of Arkansas be preserved; that it is essential that an agency be created to coordinate and supervise authority in preserving the historical and cultural heritage of the state; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1983, No. 663, § 3: Mar. 22, 1983. Emergency clause provided: “It is hereby found and determined by the General Assembly that there is an immediate need to expand the powers and duties of the Arkansas Historic Preservation Program to enter into contracts, to receive and expend funds obtained from any source, and to charge fees; and this act is immediately

necessary to grant such authority. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which

are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-7-101. Public policy.

(a) The General Assembly determines that the historical, archeological, architectural, and cultural heritage of Arkansas is among the most important economic and environmental assets of this state and that rapid development threatens to remove the remaining vestiges of Arkansas' proud and unique heritage.

(b) Therefore, it is declared to be public policy and in the best interests of the general economic, social, and educational welfare of all the citizens of Arkansas for this state to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of Arkansas and its political subdivisions, to promote the use and preservation of property for the public interest and the education, inspiration, pleasure, and enrichment of the citizens of this state.

History. Acts 1977, No. 480, § 1;
A.S.A. 1947, § 8-904.

13-7-102. Definitions.

As used in this subchapter:

(1) "Historic preservation" means the research, interpretation, presentation, protection, restoration, and rehabilitation of historic property; and

(2) "Historic property" means any building, structure, object, district, area, or site that is significant in the history, architecture, archeology, or culture of this state, its communities, or the nation.

History. Acts 1977, No. 480, § 2;
A.S.A. 1947, § 8-905.

13-7-103. Construction.

Nothing in this subchapter shall be construed to repeal or diminish any of the powers, functions, or responsibilities of the Arkansas History Commission, the State Parks, Recreation, and Travel Commission, the Old State House Commission, and the Arkansas Archeological Survey, as prescribed by law.

History. Acts 1977, No. 480, § 10;
A.S.A. 1947, § 8-913.

13-7-104. Administration of program.

The Department of Arkansas Heritage is designated as the agency of this state to develop and implement a statewide program of historic preservation.

History. Acts 1977, No. 480, § 3;
A.S.A. 1947, § 8-906.

13-7-105. Arkansas Archeological Survey to perform archeological functions.

(a) All archeological functions of the program of historic preservation, including that under 16 U.S.C. § 470 et seq. and as provided for under this subchapter shall be performed by the Arkansas Archeological Survey for the purpose of statewide archeological investigation and preservation.

(b) In furtherance of the development and implementation of a statewide program of historic preservation, the survey and the Arkansas Historic Preservation Program of the Department of Arkansas Heritage shall cooperate in the fullest manner possible.

History. Acts 1977, No. 480, § 5; Preservation Program of the Department of Arkansas Heritage, § 25-3-102.
A.S.A. 1947, § 8-908.

Cross References. Arkansas Historic

13-7-106. Arkansas Historic Preservation Program — Powers and duties.

(a) The Arkansas Historic Preservation Program, a division of the Department of Arkansas Heritage, under the State Historic Preservation Officer, shall have the following powers and duties:

(1) To implement the development of a State Historic Preservation Plan as contemplated by 16 U.S.C. § 470 et seq., but not necessarily restricted thereto, and to be responsible for the historical, architectural, and cultural portions of that plan;

(2) To conduct surveys and otherwise develop the data necessary for the historical, architectural, and cultural portions of the State Historic Preservation Plan;

(3) To cooperate with the Arkansas Archeological Survey which will be responsible for the archeological portion of the statewide program for

historic preservation and the State Historic Preservation Plan as provided for in § 13-7-105;

(4) To coordinate the surveys and other programs of activities of all state and private agencies in connection with projects supported by federal funds provided to the department to implement 16 U.S.C. § 470 et seq. and all cash funds or appropriated state funds made available to the department for the program;

(5) To allocate any federal funds which are provided to implement 16 U.S.C. § 470 et seq. to those state agencies or private or other organizations which are professionally staffed and capable of carrying out the programs provided for by 16 U.S.C. § 470 et seq.;

(6) To employ such necessary personnel, consultants, planners, or other employees or professional services within the limits of funds available therefor as may be required in the performance of services contemplated by this subchapter, and to contract with any and all public firms or agencies for the purpose of making state surveys and plans necessary for the implementation of this subchapter;

(7) To accept and administer funds received from the state or federal government or any other governmental agencies or from any private source in furtherance of the provisions of this subchapter; provided, that administration and acceptance does not include cash or appropriated funds made available to the Arkansas Archeological Survey from whatever source;

(8) To reimburse members of committees appointed by the Governor for expenses in accordance with § 25-16-901 et seq.;

(9) To enlist the cooperation and assistance of the Old State House Commission, the Arkansas History Commission, the State Parks, Recreation, and Travel Commission, and all other agencies for historical, architectural, and cultural purposes, to the end that all activities shall be developed in accordance with the plan as contemplated by this subchapter and 16 U.S.C. § 470 et seq., and in accordance with existing state laws pertaining to the duties and responsibilities of each of the agencies indicated in subdivision (a)(9) of this section;

(10) To cooperate with federal, state, and local government agencies in surveying the state for historic properties to be included in the State or National Register of Historic Places, or both, in the planning and conduct of specific undertakings affecting historic properties and preservation objectives, and, generally, in overall planning for the use of land; and

(11) To perform all other functions necessary in the furtherance of the purpose of this subchapter and in coordinating and implementing the participation by this state in the purposes contemplated by 16 U.S.C. § 470 et seq.

(b)(1) The program is authorized to:

(A) Enter into contracts;

(B) Receive and expend gifts, grants, or other funds from federal or private sources; and

(C) Charge fees for conferences, tax certification, easements, and the professional review of federal undertakings for their impact on cultural resources.

(2) These funds shall be deposited in the Cash Fund of the program.

(c)(1) The program is authorized to acquire in the name of the state sites, buildings, and objects of historical value by gift, purchase, or otherwise.

(2) No property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the state for the payment of the property, or the maintenance or improvement thereof after acquisition, in the absence of the appropriation of funds by the General Assembly for that purpose.

(3) The interest in any land authorized to be acquired by this subchapter may be fee simple or any lesser interest as determined by the State Historic Preservation Officer with the advice of the State Review Committee for Historic Preservation to be reasonably necessary to accomplish the purpose of this subchapter.

History. Acts 1977, No. 480, § 8; 1983, No. 663, § 1; A.S.A. 1947, § 8-911; Acts 1997, No. 250, § 81.

13-7-107. State Historic Preservation Officer — Appointment and duties.

(a) The Governor shall designate the State Historic Preservation Officer who shall be an employee of the Department of Arkansas Heritage.

(b) The State Historic Preservation Officer shall be responsible for conducting relations with the representatives of the federal government, the respective states, governmental units within Arkansas, state agencies, organizations, and individuals with regard to matters of historic preservation.

(c) The State Historic Preservation Officer is charged with the responsibility for the professional and fiscal conduct of the Arkansas Historic Preservation Program, including the program carried out under 16 U.S.C. § 470 et seq.

History. Acts 1977, No. 480, § 4; A.S.A. 1947, § 8-907.

13-7-108. Review committee — Powers and duties.

(a) There is recognized the existence of the State Review Committee for Historic Preservation established in accordance with federal guidelines promulgated under 16 U.S.C. § 470 et seq.

(b) The committee shall be appointed by the Governor with a minimum of five (5) members.

(c) The committee shall have the power and duty to:

(1) Review districts, sites, buildings, structures, and objects which may be recommended for inclusion in a State or National Register of Historic Places, or both, and advise the State Historic Preservation Officer concerning their nomination;

(2) Review and advise the State Historic Preservation Officer on the State Historic Preservation Plan;

(3) Elect a chair and spell out rules and procedures as necessary; and

(4) Act in an advisory capacity to the State Historic Preservation Officer.

History. Acts 1977, No. 480, §§ 6, 7;
A.S.A. 1947, §§ 8-909, 8-910.

U.S. Code. For Public Law 89-665, see
note to § 13-7-105.

13-7-109. State Register of Historic Places.

(a) There is created a State Register of Historic Places.

(b)(1)(A) The State Historic Preservation Officer, in consultation with the State Review Committee for Historic Preservation, shall establish a listing of sites, districts, structures, buildings, areas, or objects above or below the surface of the earth, whether on land or in the waters of the state, together with any designated improvements thereon, significant in the history, architecture, archeology, or culture of the state, its communities, or the nation.

(B) The listing shall constitute the State Register of Historic Places.

(2) All historic places within the state listed on or nominated to the National Register of Historic Places shall be deemed to be listed in the State Register of Historic Places.

(c) The State Historic Preservation Officer, with the advice of the review committee, shall establish the procedures and the criteria for listing in the State Register of Historic Places.

(d) Listing a privately owned property in the State Register of Historic Places shall in no way violate or abridge the lawful owner's right to use, modify, or dispose of the property.

History. Acts 1993, No. 155, § 1.

CASE NOTES

Renovations.

Where residence was not listed with either the federal or state registers of historic places, and planned renovations would not destroy the architectural integ-

ity of residence, there was no violation of Arkansas' public policy to engage in historic preservation. *Childs v. Adams*, 322 Ark. 424, 909 S.W.2d 641 (1995).

13-7-110. Arkansas Historic Building Code authorized.

(a) The Arkansas Historic Preservation Program may by regulation promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., adopt an Arkansas Historic Building Code for buildings listed individually on the National Register of Historic Places,

buildings eligible for listing individually on the National Register of Historic Places, and buildings listed as a contributing resource in a National Register Historic District.

(b) To the extent that the provisions of the Arkansas Historic Building Code adopted by the program conflict with any state or local building or fire code, the Arkansas Historic Building Code shall prevail as to the buildings described in subsection (a) of this section.

History. Acts 1997, No. 935, § 1.

A.C.R.C. Notes. References to “this subchapter” in §§ 13-7-101—13-7-109 may not apply to this section which was enacted subsequently.

Cross References. Cities and towns, Historic Districts Act, § 14-172-201 et seq.

SUBCHAPTER 2 — OLD STATE HOUSE COMMISSION

SECTION.

- 13-7-201. Old State House Commission — Purpose and creation.
- 13-7-202. Members — Appointment — Terms — Vacancies.
- 13-7-203. Officers — Rules — Meetings — Reports.

SECTION.

- 13-7-204. Oaths — Penalty for violation — Effect of conviction.
- 13-7-205. Powers and duties.
- 13-7-206. Old State House.

Effective Dates. Acts 1947, No. 256, § 5: approved Mar. 19, 1947. Emergency clause provided: “It is found and declared by the General Assembly that the historic sites, buildings and objects which are now marked for preservation by the state are subject to disintegration and casualty, with resulting irreparable loss, which can best be avoided through a commission having comprehensive and uniform jurisdiction, and that other historic sites, buildings and objects which are or may become worthy of preservation cannot be reasonably acquired for the purpose because of the absence of a commission charged with the duty of ascertaining their exceptional value; hence, this act, being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.”

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: “It is

hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

13-7-201. Old State House Commission — Purpose and creation.

There is created and established at the seat of government the Old State House Commission for the purposes of:

(1) Providing comprehensive and uniform jurisdiction over the sites, buildings, and objects, past and prospective, which will illustrate for all time the struggles and triumphs, the self-respect and pride, of the progenitors of Arkansas, and also of the present and succeeding generations when they shall themselves have become parts of its history;

(2) Determining from time to time which of these sites, buildings, and objects in addition to those already made available to public enjoyment possesses exceptional commemorative value;

(3) Protecting these sites, buildings, and objects against deterioration and casualty; and

(4) Improving, beautifying, preserving, and rendering these sites convenient for appropriate use and public inspection.

History. Acts 1947, No. 256, § 1; A.S.A. 1947, § 8-201.

A.C.R.C. Notes. Acts 2001, No. 68, § 1, provided: "(a) The Arkansas Commemorative Commission shall hereafter be known as the 'Old State House Commission'.

"(b) The Arkansas Code Revision Commission shall make appropriate changes to sections of the Arkansas Code to substitute the 'Old State House Commission' for the 'Arkansas Commemorative Commission'.

"(c) This section is not required to be

codified by the Arkansas Code Revision Commission."

Publisher's Notes. The Arkansas Commemorative Commission and its functions, powers, and duties were transferred to the Department of Parks and Tourism by a type 1 transfer pursuant to Acts 1971, No. 38, § 7. Subsequently, the Arkansas Commemorative Commission and its functions, powers, and duties were transferred by a type 1 transfer to the Department of Arkansas Heritage pursuant to Acts 1975, No. 1001, § 4.

CASE NOTES

Cited: *Kendall v. Henderson*, 238 Ark. 832, 384 S.W.2d 954 (1964).

13-7-202. Members — Appointment — Terms — Vacancies.

(a) The Old State House Commission shall consist of nine (9) members. The commissioners shall be citizens of Arkansas, selected because of their knowledge of and interest in Arkansas history.

(b) The commission members shall be appointed by the Governor, with two (2) members from the state at large, and one (1) member from each congressional district as now or hereafter created.

(c) Upon his or her appointment, each member shall notify the Governor in writing of his or her acceptance thereof or the appointment shall be void, and the Governor shall again appoint, unless the appointee shall thus indicate acceptance within fifteen (15) days.

(d) The term of office of each member appointed shall begin with the expiration of the term of his or her predecessor in office and shall each expire nine (9) years thereafter. Each member appointed shall continue to hold his or her office after the expiration of the term thereof until his or her successor shall have qualified.

(e) Any vacancy arising in the membership otherwise than by the expiration of the term of office shall be filled by appointment by the

Governor for the balance of the term of the membership which became vacant and until the qualification of a successor in regular course.

(f) The Governor may, upon notice and hearing, remove any member for misconduct, neglect of duty, or other sufficient cause.

(g) The members shall receive no compensation for their services, but they may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1947, No. 256, §§ 1, 2; A.S.A. 1947, §§ 8-201, 8-202; Acts 1997, No. 250, § 82.

Publisher's Notes. The terms of the members of the Arkansas Commemora-

tive Commission are arranged so that one term expires every year.

Cross References. Effect of reduction of congressional districts on state boards and commissions, § 25-16-801.

CASE NOTES

Cited: Kendall v. Henderson, 238 Ark. 832, 384 S.W.2d 954 (1964).

13-7-203. Officers — Rules — Meetings — Reports.

(a) The Governor shall designate one (1) of the members of the Old State House Commission to serve as its chair until the expiration of his or her term or at the pleasure of the Governor.

(b) The commission shall select from its membership from time to time a vicechair and a secretary. The commission shall be authorized to employ the secretary either as curator or as receptionist.

(c) The commission shall adopt and may modify rules for the conduct of business and shall keep a record of its transactions, findings, and determinations, which record shall be public.

(d) The rules shall provide for regular meetings and for special meetings at the call of the chair, or of the vicechair if he or she is for any reason the acting chair, either at his or her own instance or upon the written request of at least five (5) members.

(e) A quorum of the commission shall consist of not fewer than five (5) members present at any regular or special meeting, and a majority affirmative vote of the members so present shall be sufficient for the disposition of any business.

(f) It shall be the duty of the commission to cause to be prepared and presented to the Governor a report showing the operation of the commission since the date of its last previous report and containing recommendations. This shall be done annually not later than the first Monday in December.

History. Acts 1947, No. 256, § 3; 1951, No. 385, § 1; A.S.A. 1947, § 8-203.

13-7-204. Oaths — Penalty for violation — Effect of conviction.

(a) Each member of the Old State House Commission shall, before entering upon his or her duties, file in the office of the Secretary of

State, the oath provided by Arkansas Constitution, Article 19, § 20, and in addition that he or she will not be a party, directly or indirectly, to any action taken by the commission that may in any manner affect his or her private interests.

(b) The violation of the oath shall constitute a misdemeanor punishable by fine in any amount not exceeding five hundred dollars (\$500) or by imprisonment not exceeding one (1) year, or by both fine and imprisonment.

(c) Conviction shall bar a person from continued membership and shall void any action of the commission in which he or she participated.

History. Acts 1947, No. 256, § 2;
A.S.A. 1947, § 8-202.

13-7-205. Powers and duties.

The Old State House Commission shall:

(1) Take over all records, files, books, and papers in the custody or control of persons with custody or control of sites, buildings, and objects which are marked for preservation for historical purposes in charge of the commission;

(2) Secure, collate, and preserve drawings, plans, photographs, and other data of historic sites, buildings, and objects;

(3) Make surveys of historic sites, buildings, and objects for the purpose of determining which possess value as illustrative of the history of the state;

(4) Make diligent researches to obtain accurate historical facts and information relating to sites, buildings, and objects;

(5)(A) Acquire in the name of the state sites, buildings, and objects of historical value by gift, purchase, or otherwise.

(B) However, no such property shall be acquired, or contract or agreement for the acquisition thereof made, which will obligate the state for the payment of the property, or the maintenance or improvement thereof after acquisition, in the absence of the appropriation of funds by the General Assembly for the purpose;

(6) Restore, reconstruct, rehabilitate, preserve and maintain historic sites, buildings and objects, and the grounds and the approaches thereto;

(7) Operate and manage historic sites, buildings, and objects for the benefit of the public, which authority shall include the power to charge reasonable visitation fees and grant permits for the use of land or building space when necessary or desirable to accommodate the public, or to facilitate administration, or for other appropriate purposes;

(8) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to Arkansas historic sites, buildings, and objects and make reasonable charges for the dissemination of the facts or information; and

(9)(A) Perform any and all acts, and make and publicly post such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of this subchapter.

(B) The purpose of the rules and regulations shall be to carry into effect the commission's implied powers, to be ascertained from the express provisions of this subchapter.

(C) The rules and regulations shall be deposited with the Secretary of State and that official's receipt taken.

(D) Any person violating any of these rules and regulations shall be guilty of a misdemeanor, punishable by fine in any amount not exceeding five hundred dollars (\$500) or by imprisonment not exceeding one (1) year, or by both fine and imprisonment.

History. Acts 1947, No. 256, § 4; 1963, No. 208, § 1; A.S.A. 1947, § 8-204.

13-7-206. Old State House.

(a)(1) The Old State Capitol building and grounds, situated on West Markham Street between Ashley and Conway Streets, in the City of Little Rock, Pulaski County, Arkansas, shall be known and designated as the Old State House.

(2) Title to the property shall remain in the State of Arkansas.

(b) The Old State House Commission shall have exclusive jurisdiction for the custody, care, restoration, and use of the Old State House, at all times preserving its architectural design.

History. Acts 1947, No. 256, § 4; 1963, No. 208, § 1; 1979, No. 614, § 1; A.S.A. 1947, § 8-204.

CASE NOTES

Cited: Kendall v. Henderson, 238 Ark. 832, 384 S.W.2d 954 (1964).

SUBCHAPTER 3 — HISTORIC ARKANSAS MUSEUM COMMISSION

SECTION.

- 13-7-301. Acquisition and restoration of property — Historic center.
- 13-7-302. Commission created — Duties and powers.
- 13-7-303. Members.
- 13-7-304. Commission accounts.
- 13-7-305. Admission fees — Disposition of revenues.

SECTION.

- 13-7-306. Acquisition of additional property — Restoration.
- 13-7-307. Acceptance of gifts.
- 13-7-308. Certificates of indebtedness — Restrictions — Liability.
- 13-7-309. Forms of certificates of indebtedness.

Effective Dates. Acts 1939, No. 388, § 7: approved Mar. 18, 1939. Emergency clause provided: "It is found that the buildings referred to in this act constitute one of the most important historic centers in the state, and that an allotment of

Public Works Administration labor to aid in their restoration has been approved, but to secure it the restoration work will need to be started before June 1 this year; and it is further found that in their present condition of repair some of the

said buildings have been ordered removed by the city, and that unless the work of restoring said buildings is started before June 1 of this year there is grave danger that some of said buildings, and the opportunity of acquiring the site and restoring this important historic center, will be lost; and it is found necessary, for the preservation of the public peace, health and safety, that this measure become effective without delay; and this act shall take effect and be in force on and after its passage."

Acts 1967, No. 76, § 7: Feb. 13, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Territorial Capitol Restoration Commission is in dire immediate need of additional lands for the construction of additional facilities for the Territorial Restoration and that this act is immediately necessary to give the commission the authority to acquire said additional lands. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of public peace, health and safety shall be

in effect from the date of its passage and approval."

Acts 1989, No. 379, § 5: Mar. 7, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law regarding the composition of the Arkansas Territorial Capitol Restoration Commission is vague; that this Act is intended to make clear that the commission is composed of the people serving on the effective date of this Act and that their successors shall be selected by the remaining members of the commission; that surplus funds in the hands of the commission at the end of each fiscal year are cash funds and should not be deposited in the State Treasury; that this Act clarifies the law and should be given immediate effect in order to eliminate the confusion as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

13-7-301. Acquisition and restoration of property — Historic center.

(a) The state shall acquire title to the east one-half (½) of Block 32 of the Original City of Little Rock, Arkansas, on which is situated:

(1) The building that was the last capitol building of the Territory of Arkansas, in which was adopted the first Constitution for the State of Arkansas;

(2) A building designed by the architect of the Old State Capitol;

(3) The building in which was published the second newspaper to be published west of the Mississippi River; and

(4) A historic building more than one hundred (100) years old.

(b) The state shall restore the buildings to their original condition so far as possible and landscape the grounds surrounding them for the purpose of maintaining them as a historic center, interesting to the inhabitants of the state and to tourists who visit Arkansas.

History. Acts 1939, No. 388, § 1;
A.S.A. 1947, § 8-101.

13-7-302. Commission created — Duties and powers.

(a) The Historic Arkansas Museum Commission is established and shall have the following powers:

(1) To have charge of the work of restoring the old Arkansas Territorial Capitol and the other historic buildings on the land;

(2) To furnish the buildings with furniture appropriate to the period when they were occupied;

(3) To improve the appearance of the grounds surrounding them;

(4) To maintain a historic center to be known as the Historic Arkansas Museum; and

(5) To secure any additional funds and contributions of labor and material that they may be able to obtain for the project from any United States Government agency and from private subscriptions to assist in defraying the cost of restoration and to disburse in the restoration all the funds so received.

(b) The commissioners shall have power to employ architects and other employees necessary in carrying out restoration and in maintaining a historic center after restoration is accomplished.

(c) All powers, duties, assets, and liabilities of the Arkansas Territorial Capitol Restoration Commission shall hereafter be powers, duties, assets, and liabilities of the Historic Arkansas Museum Commission.

History. Acts 1939, No. 388, §§ 2, 3; A.S.A. 1947, §§ 8-102, 8-103; Acts 2001, No. 69, § 1.

Publisher's Notes. The Arkansas Territorial Capitol Restoration Commission was transferred to the Department of Arkansas Heritage by Acts 1975, No. 1001, § 4.

Acts 1939, No. 388, § 2 provided in part that the commission would acquire the land specified in § 13-7-301 and have it

deeded to the State of Arkansas for a price not exceeding \$17,500.

Amendments. The 2001 amendment substituted "Historic Arkansas Museum Commission" for "Arkansas Territorial Capitol Restoration Commission" in the introductory language of (a); inserted "to be known as the Historic Arkansas Museum" in (a)(4); added (c); and made stylistic changes.

13-7-303. Members.

(a) The Historic Arkansas Museum Commission shall be composed of not fewer than seven (7) nor more than eleven (11) members and vacancies on the commission shall be filled by the remaining members.

(b) None of the commissioners shall receive any salary or other remuneration for their services.

History. Acts 1939, No. 388, § 3; A.S.A. 1947, § 8-103; Acts 1989, No. 379, § 1.

Publisher's Notes. Acts 1939, No. 388, § 2, in part, appointed certain individuals, by name, to serve as the initial members of the commission.

A.C.R.C. Notes. The operation of subsection (b) may be affected by the enactment of Acts 1995, No. 1211, codified as § 25-16-901 et seq., concerning mileage reimbursement for members of state boards and commissions.

13-7-304. Commission accounts.

The members of the Historic Arkansas Museum Commission shall keep strict account of all moneys received and disbursed by them and by their order and shall file a statement thereof annually with the Director of the Department of Finance and Administration, who shall properly

check and audit the statement of account and the books of the commission.

History. Acts 1939, No. 388, § 4;
A.S.A. 1947, § 8-104.

13-7-305. Admission fees — Disposition of revenues.

(a) Before and after the restoration work on the historic center is completed, the Historic Arkansas Museum Commission may charge an admission fee thereto as it deems appropriate.

(b) The funds realized from admission fees, the sale of souvenirs, and from other sources connected with the project shall be used for the maintenance of the historic center so far as necessary.

(c) Any surplus funds from these sources of income that may be in the hands of the commission at the end of each fiscal year shall be deemed cash funds.

History. Acts 1939, No. 388, § 5;
A.S.A. 1947, § 8-105; Acts 1989, No. 379,
§ 2.

13-7-306. Acquisition of additional property — Restoration.

(a) The Historic Arkansas Museum Commission is authorized to acquire for and in the name of the State of Arkansas, by purchase, gift, donation, or otherwise, the title to the west one-half (½) of Block 32 of the Original City of Little Rock, Arkansas, which adjoins the present property owned by the State of Arkansas upon which the buildings housing the Arkansas Territorial Capitol and other historic buildings and facilities are located.

(b) The commission is authorized to acquire for and in the name of the State of Arkansas, by purchase, gift, donation, or otherwise, the title to property which is adjacent to Block 32 of the Original City of Little Rock, Arkansas.

(c) The commission may use its property and make improvements thereon as it deems to be in the furtherance of the aims and purposes of the commission as prescribed by law.

History. Acts 1967, No. 76, § 1; A.S.A. 1947, § 8-106; 2001, No. 69, § 2.

Amendments. The 2001 amendment substituted "Historic Arkansas Museum Commission" for "Arkansas Territorial Capitol Restoration Commission" in (a);

inserted (b) and redesignated former (b) as (c); and, in (c), deleted "Upon acquiring title to the west one-half (½) of Block 32" from the beginning and substituted "use its property" for "use it for."

13-7-307. Acceptance of gifts.

The Historic Arkansas Museum Commission is authorized to accept and receive any and all gifts, grants, donations, and contributions of real and personal property and to manage and use the property and the income therefrom for the construction, reconstruction, restoration, and

maintenance of buildings or facilities and for other improvements on the property.

History. Acts 1967, No. 76, § 2; A.S.A. 1947, § 8-107; Acts 2001, No. 69, § 3.

Amendments. The 2001 amendment substituted “Historic Arkansas Museum Commission” for “Arkansas Territorial

Capitol Restoration Commission”; and substituted “the property” for “Block 32 of the Original City of Little Rock, the Territorial Capitol Restoration Grounds” at the end.

13-7-308. Certificates of indebtedness — Restrictions — Liability.

(a)(1) The Historic Arkansas Museum Commission is authorized to issue certificates of indebtedness for the purpose of obtaining funds for construction, reconstruction, and restoration of buildings and facilities, and for making other improvements, on Block 32 of the Original City of Little Rock.

(2) The commission may pledge the income derived from real or personal property received as a gift, grant, donation, or contribution as authorized in § 13-7-307 to secure such evidences of indebtedness.

(b) Nothing in this section and §§ 13-7-306, 13-7-307, and 13-7-309 shall be construed to authorize the commission to pledge revenues derived from fees charged for admission to buildings and facilities located on Block 32 or from the sale of souvenirs therein, and these revenues shall continue to be used for the purposes provided in § 13-7-305.

(c) Certificates of indebtedness issued pursuant to the authority granted in this section and §§ 13-7-306, 13-7-307, and 13-7-309 shall be obligations of the commission and shall in no event be considered a debt for which the faith and credit of the state or any of its revenues are pledged, nor shall the certificates be considered or deemed a debt of the individual members of the commission.

History. Acts 1967, No. 76, § 3; A.S.A. 1947, § 8-108.

13-7-309. Forms of certificates of indebtedness.

(a) Certificates of indebtedness issued pursuant to the authority granted in this subchapter shall be in such form and denomination and shall have such dates of maturity and bear such interest rate or rates as the Historic Arkansas Museum Commission shall determine.

(b) No certificates shall mature more than twenty (20) years from date of issue.

(c) The certificates shall contain provision for their redemption in advance of their maturity at the option of the commission.

History. Acts 1967, No. 76, § 4; A.S.A. 1947, § 8-109.

SUBCHAPTER 4 — PRAIRIE GROVE BATTLEFIELD COMMISSION

SECTION.

13-7-401. Creation — Members.

13-7-402. Officers — Oaths and compensation of members.

SECTION.

13-7-403. Powers and duties.

13-7-404. Acquisition of land.

13-7-405. Payment for land acquired.

Effective Dates. Acts 1997, No. 250, § 258; Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared

to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-7-401. Creation — Members.

(a) There is created a Prairie Grove Battlefield Commission.

(b) The commission shall be composed of five (5) qualified electors of the State of Arkansas to be appointed by the Governor and shall be charged with the powers, duties, and responsibilities provided for in this subchapter.

(c) The members of the commission shall be appointed for five-year staggered terms of office.

(d) Vacancies on the commission caused by death, resignation, or any other reason shall be filled by appointment by the Governor for the unexpired portion of the term.

History. Acts 1957, No. 197, §§ 1, 2; A.S.A. 1947, §§ 8-601, 8-602.

Publisher's Notes. The Prairie Grove Battlefield Commission and its functions, powers, and duties were transferred by a type 1 transfer to the Department of

Parks and Tourism pursuant to Acts 1971, No. 38, § 7.

The terms of the members of the Prairie Grove Battlefield Commission are arranged so that one term expires every year.

CASE NOTES

Cited: Kendall v. Henderson, 238 Ark. 832, 384 S.W.2d 954 (1964).

13-7-402. Officers — Oaths and compensation of members.

(a) Before any member of the Prairie Grove Battlefield Commission shall enter upon his or her duties as a member of the commission, his

or her shall take the oath required of elected state officials and shall file a copy of the oath in the office of the Secretary of State.

(b) Upon its appointment, the commission shall meet and organize by electing one (1) of its members as chair and one (1) member as secretary and shall elect any other officers as the commission deems necessary. The officers shall be elected annually.

(c) Members of the commission shall serve without compensation, provided that the members may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1957, No. 197, § 3; A.S.A. 1947, § 8-603; Acts 1997, No. 250, § 83.

13-7-403. Powers and duties.

The Prairie Grove Battlefield Commission shall have the following powers and duties:

(1) To acquire and develop such lands and improvements thereon and monuments adjacent to the present Prairie Grove Battleground Park located in Washington County as the commission deems necessary to preserve and develop it as a proper memorial to the officers and men of the Confederacy who fought in the battle;

(2) To convey any and all of the land and other property acquired to the United States Government, or any of its agencies, to be used as a part of a national park or to convey it to the Department of Parks and Tourism for maintenance and operation as a part of the state parks system if the commission deems it in the best interest of the state;

(3) To exercise the right of eminent domain to appropriate or condemn lands or improvements thereon, or waters as may be necessary for inclusion in the Prairie Grove Battlefield project authorized in this subchapter, which condemnation shall be in conformity with the requirements set forth in the laws of this state under which the State Highway Commission is authorized to appropriate and condemn lands and improvements thereon;

(4) To employ such legal counsel, engineers, surveyors, or other personnel as may be necessary to carry out the purposes of this subchapter; and

(5) To accept gifts, grants, or donations of real or personal property to be used for the purposes of this subchapter.

History. Acts 1957, No. 197, § 4; A.S.A. 1947, § 8-604.

Cross References. Appropriation and condemnations of lands and improvements by State Highway Commission, requirements, § 27-67-311 et seq.

13-7-404. Acquisition of land.

(a) Before the Prairie Grove Battlefield Commission shall buy any land under the provisions of this subchapter, the commission shall cause an appraisal of the land to be made by three (3) qualified and

impartial appraisers, and the commission shall not pay any greater price for the land than the appraised value thereof.

(b) If the owner or owners of the land refuse to sell it to the commission or if they seek a greater price than the appraised value of the land, the commission may acquire the land by condemnation as authorized in § 13-7-403 and pay for the land at the price fixed by the court.

(c)(1) All suits for the condemnation of property under the provisions of this subchapter shall be brought in the name of the State of Arkansas for the use and benefit of the commission.

(2) Before any suit can be brought, it shall be necessary for the commission to unanimously pass a resolution to that effect setting forth the necessity and purpose for which the land is to be condemned, together with the legal description of the lands sought to be condemned.

(3) A copy of the resolution shall then be transmitted to the prosecuting attorney of the district in which the land is situated.

(4) It shall then be the duty of the prosecuting attorney to institute proper proceedings for the condemnation of the land, or, if the commission elects, it may employ its own counsel to institute condemnation proceedings.

History. Acts 1957, No. 197, § 5;
A.S.A. 1947, § 8-605.

13-7-405. Payment for land acquired.

(a) When the Prairie Grove Battlefield Commission shall have ascertained the description of the lands to be acquired and shall have satisfied itself as to the title thereto and the amount of payment to be made to the owner or owners of the lands, the commission shall certify to the Auditor of State its findings, giving the name of the landowner, the description of the land involved, and the compensation due the landowner.

(b) When these facts shall have been certified to the Auditor of State, the Auditor of State shall draw his or her warrant against the appropriation made for that purpose for the amount due the landowner and the Treasurer of State shall pay the amount of the warrant or voucher upon presentation.

History. Acts 1957, No. 197, § 6;
A.S.A. 1947, § 8-606.

SUBCHAPTER 5 — HISTORIC PRESERVATION LOAN ACT

SECTION.

13-7-501. Title.

13-7-502. Purpose.

13-7-503. Definitions.

13-7-504. Fund created — Administration.

SECTION.

13-7-505. Loan program — Duties of program.

13-7-506. Loans — Criteria.

13-7-507. Donation or sale of property — Disposition of proceeds.

Effective Dates. Acts 1993, No. 156, § 11; Feb. 17, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that many historic properties are in dire need of restoration, rehabilitation, and repair; that in order to preserve these properties, public assistance is vital; that this act provides a program for such assistance; and that this act should go into effect

immediately in order to implement the program as soon as possible and thereby preserve our historic structures. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

13-7-501. Title.

This subchapter may be cited as the Historic Preservation Loan Act.

History. Acts 1993, No. 156, § 1.

13-7-502. Purpose.

The purpose of this subchapter is to provide owners of registered cultural properties in Arkansas with low-cost financial assistance in the restoration, rehabilitation, and repair of properties listed in the State Register of Historic Places or National Register of Historic Places, which are a part of the state's heritage and which contribute substantially to the state's economic well-being and to a sound and proper balance between preservation and development, through the creation of a self-sustaining revolving loan program to rehabilitate, repair, and restore historic properties.

History. Acts 1993, No. 156, § 2; 1995, No. 1296, § 44.

13-7-503. Definitions.

As used in this subchapter:

- (1) "Fund" means the Historic Preservation Revolving Loan Fund;
- (2) "Program" means the Arkansas Historic Preservation Program created by § 13-7-101 et seq.;
- (3) "Property owner" means the sole owner, joint owner, owner in partnership, or corporate owner of a registered cultural property, and includes the owner of a leasehold interest in a registered cultural property, if the term of the lease is not less than nineteen (19) years; and
- (4) "Registered cultural property" means any site, structure, building, or object entered in the State Register of Historic Places or National Register of Historic Places, or both.

History. Acts 1993, No. 156, § 3; 1995, No. 1296, § 45.

13-7-504. Fund created — Administration.

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State, a revolving loan fund which shall be known as the Historic Preservation Revolving Loan Fund. The Arkansas Historic Preservation Program shall administer the Historic Preservation Revolving Loan Fund and may make loans from the Historic Preservation Revolving Loan Fund in accordance with this subchapter.

(b) The program shall deposit in the Historic Preservation Revolving Loan Fund all receipts from the repayment of loans made pursuant to this subchapter.

(c) The program may deposit in the Historic Preservation Revolving Loan Fund any private funds made available for the purposes of this subchapter and any federal funds made available for the purpose of making grants or loans to owners of registered historic properties. Such funds may be used by the program to make or to subsidize loans made pursuant to this subchapter.

(d) The program may deposit in the Historic Preservation Revolving Loan Fund any portion of the real estate transfer taxes deemed appropriate by the program.

(e) In the event the program ceases to make loans from the Historic Preservation Revolving Loan Fund, any moneys remaining in the Historic Preservation Revolving Loan Fund may be transferred to the Natural and Cultural Resources Historic Preservation Fund, as certified to the Chief Fiscal Officer of the State by the Department of Arkansas Heritage.

History. Acts 1993, No. 156, § 4.

13-7-505. Loan program — Duties of program.

(a) The Arkansas Historic Preservation Program shall make direct loans or loan subsidies upon such terms and conditions as it deems appropriate to owners of registered cultural properties for the restoration, rehabilitation, or repair of those properties in accordance with this subchapter.

(b) The program shall adopt rules and regulations to govern the application procedure and requirements for making or subsidizing loans under this subchapter.

(c) The program shall adopt rules and regulations to govern the deposits with lending institutions for making or subsidizing loans under this subchapter.

(d)(1) The program shall adopt a system for the priority ranking of historic preservation projects, both eligible and ineligible for federal funding assistance, for which loan or loan subsidy applications have been received by the program.

(2) The system shall be based on factors including geographic distribution of recipient projects, severity of deterioration of the registered property, the degree of architectural and construction detail in the loan

application demonstrating the feasibility of the proposed restoration, rehabilitation, or repair of the registered cultural property, and availability of other funding for the project.

(3) All loans or loan subsidies from the Historic Preservation Revolving Loan Fund shall be granted pursuant to this system, and the system shall be reviewed annually by the program.

(e) The program shall monitor the fund and shall prepare an annual report to the Governor and the General Assembly detailing the operations of the fund.

(f) The program has the authority necessary and appropriate for the exercise of the powers and duties conferred by this subchapter.

History. Acts 1993, No. 156, § 5.

13-7-506. Loans — Criteria.

(a) Loans or loan subsidies from the Historic Preservation Revolving Loan Fund shall be made only to property owners who:

(1) Agree to repay the loan and to maintain the registered cultural property as restored, rehabilitated, or repaired for a specified period, but in no case less than seven (7) years;

(2) Agree to maintain complete and proper financial records regarding the registered cultural property and to make these available to the Arkansas Historic Preservation Program on request;

(3) Agree to complete the proposed rehabilitation, repair, or restoration work on the registered cultural property within two (2) years from the date of project loan approval by the program; and

(4) Provide sufficient collateral security interest in the registered cultural property to the State of Arkansas in accordance with rules and regulations established by the program.

(b)(1) A loan shall be made for a period not to exceed five (5) years with interest on the unpaid balance at a rate not greater than the yield at the time of loan approval on United States Treasury bills with a maturity of three hundred sixty-five (365) days plus three and one-half percent (3½%).

(2) A loan shall be repaid by the property owner in equal installments not less often than annually, with the first installment due within one (1) year of the date the loan is issued.

(c)(1) Loans shall be made only for eligible costs.

(2)(A) Eligible costs include architectural, engineering, and planning costs, inspection of work in progress, contracted restoration, rehabilitation, and repair costs, and costs necessary to meet code requirements.

(B) Eligible costs shall not include costs of land acquisition, legal costs, or fiscal agents' fees.

History. Acts 1993, No. 156, § 6.

13-7-507. Donation or sale of property — Disposition of proceeds.

(a) The Arkansas Historic Preservation Program may accept any property donated to it and may donate property or sell property to any person or entity and upon such terms as it deems in the best interest of the state.

(b) The program may deposit the proceeds from the sale of property into a financial institution and use the proceeds for operating the program.

History. Acts 1993, No. 156, § 7.

CHAPTER 8**ARKANSAS ARTS COUNCIL****SUBCHAPTER.**

1. ARKANSAS STATE ARTS ACT OF 1971.
2. PUBLIC ART PROGRAM.

SUBCHAPTER 1 — ARKANSAS STATE ARTS ACT OF 1971**SECTION.**

- 13-8-101. Title.
13-8-102. Definitions.
13-8-103. Establishment and composition.

SECTION.

- 13-8-104. Advisory council — Members.
13-8-105. Executive director.
13-8-106. Powers and duties.

Effective Dates. Acts 1971, No. 359, § 6: Mar. 22, 1971. Emergency clause provided: "It is hereby found that there is an immediate need to establish the Office of Arkansas State Arts and Humanities so as to ensure the state's participation in various programs designed to benefit its citizens of all ages and from every community; therefore an emergency is declared to exist and this act being necessary for the immediate preservation of the public health, peace and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reim-

bursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-8-101. Title.

This subchapter shall be known as the Arkansas State Arts Act of 1971.

History. Acts 1971, No. 359, § 1; A.S.A. deleted “and Humanities” following 1947, § 6-1001; Acts 2003, No. 608, § 2. “Arts.”

Amendments. The 2003 amendment

13-8-102. Definitions.

As used in this subchapter:

(1)(A) “Agency” means the Arkansas Arts Council.

(B) The Arkansas Arts Council shall include the Advisory Council of the Arkansas Arts Council and the position of executive director established in this subchapter;

(2) “Group” includes any state or other public agency and any nonprofit society, institution, organization, association, museum, or establishment in Arkansas, whether or not incorporated;

(3) “Production” means:

(A) Plays, with or without music;

(B) Ballet;

(C) Dance and choral performances;

(D) Concerts;

(E) Recitals;

(F) Opera;

(G) Exhibitions;

(H) Readings;

(I) Motion pictures;

(J) Television;

(K) Radio;

(L) Tape and sound recordings; and

(M) Any other activities involving the execution or rendition of the arts and meeting any standards as may be approved by the Arkansas Art Council;

(4)(A) “Project” means programs organized to carry out the purposes of this subchapter, including programs to:

(i) Foster artistic creativity;

(ii) Commission works of art;

(iii) Create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this subdivision (4); and

(iv) Develop and enhance public knowledge and understanding of the arts.

(B) The term “project” also includes, where appropriate:

(i) Rental, purchase, renovation, or construction of facilities;

(ii) Purchase or rental of land; and

(iii) Acquisition of equipment, supplies, materials, and other personal property; and

(5) “The arts” includes, but is not limited to:

- (A) Instrumental and vocal music;
- (B) Dance;
- (C) Drama;
- (D) Painting;
- (E) Sculpture;
- (F) Creative writing;
- (G) Architectural and allied fields;
- (H) Graphics;
- (I) Folk art;
- (J) Porcelain art;
- (K) China painting;
- (L) Craft art;
- (M) Industrial design;
- (N) Costume and fashion design;
- (O) Motion pictures;
- (P) Television;
- (Q) Radio;
- (R) Tape and sound recordings; and
- (S) The arts related to the presentation, performance, execution, and exhibition of such major art forms.

History. Acts 1971, No. 359, § 2; A.S.A. 1947, § 6-1002; Acts 1995, No. 1119, § 1; 2003, No. 608, § 3.

Amendments. The 2003 amendment deleted “unless the context otherwise requires” from the introductory language; inserted present (1); redesignated former (1) as present (2); deleted former (2); substituted “agency” for “office” in (3)(M); made stylistic changes in (4); substituted “subdivision (4)” for “definitions” in (4)(A)(iii); and deleted (6) and made related changes.

13-8-103. Establishment and composition.

(a) There is established the Arkansas Arts Council as a separate and distinct agency under the laws of the State of Arkansas and under the jurisdiction and supervision of the Department of Arkansas Heritage.

(b)(1) The Arkansas Arts Council shall consist of an advisory council and an executive director.

(2) The Advisory Council of the Arkansas Arts Council shall be charged with the responsibility of developing and implementing a comprehensive statewide program for the support of the arts in Arkansas, pursuant to this subchapter.

(3) The Executive Director of the Arkansas Arts Council shall be charged with the duty of administering the provisions of this subchapter and the rules, regulations, and orders established under this subchapter.

History. Acts 1971, No. 359, § 3; A.S.A. 1947, § 6-1003; Acts 2003, No. 608, § 4.

Publisher's Notes. The Office of Arkansas State Arts and Humanities was transferred to the Department of Arkansas Heritage by Acts 1975, No. 1001, § 4.

Amendments. The 2003 amendment, in (a), substituted “Arkansas Arts Council” for “Office of Arkansas State Arts and Humanities” and “agency” for “office”; redesignated former (b) as present (b)(1) through (b)(3); substituted “agency” for

“office” in present (b)(1); deleted “and humanities” following “arts” in present (b)(2); and substituted “under this subchapter” for “thereunder” in present (b)(3).

13-8-104. Advisory council — Members.

(a)(1) The Advisory Council of the Arkansas Arts Council shall consist of seventeen (17) members appointed by the Governor and selected by reason of their widely recognized knowledge and interest in the arts.

(2) Two (2) members shall be selected from each of the eight (8) planning and development districts of the State of Arkansas, and one (1) member shall be selected at large.

(b) The term of office for each member shall be four (4) years beginning July 1 of the year of appointment until a successor has been appointed and qualified for the office.

(c) A vacancy shall be filled for the remainder of the term only.

(d) Members may be reappointed to consecutive terms of office.

(e) The advisory council shall from time to time select from its membership a chair and a vice chair.

(f) No member of the advisory council shall receive pay for his or her services, but members may receive expense reimbursement in accordance with § 25-16-902.

History. Acts 1971, No. 359, § 3; A.S.A. 1947, § 6-1003; Acts 1997, No. 250, § 84; 2003, No. 608, § 5.

Publisher's Notes. The terms of the members of the advisory council are arranged so that five terms expire every fourth year and four terms expire in each of the three intervening years.

Amendments. The 2003 amendment

redesignated former (a) as present (a)(1) and (a)(2) and made related changes; in present (a)(1), substituted “Arkansas Arts Council” for “Office of Arkansas State Arts and Humanities” and deleted “and humanities” following “arts” at the end; made gender neutral changes in (e) and (f); and substituted “§ 25-16-902” for “§ 25-16-901 et seq.” in (f).

13-8-105. Executive director.

(a) The Executive Director of the Arkansas Arts Council shall be the ex officio secretary of the Advisory Council of the Arkansas Arts Council but shall have no vote on matters coming before the advisory council.

(b) The executive director's salary and expenses of his or her office shall be fixed by the General Assembly within amounts available therefor by appropriation.

(c) The advisory council by resolution duly adopted may delegate to the executive director any of the powers and duties vested in or imposed upon it by this subchapter, and the delegated powers and duties may be exercised by the executive director in the name of the Arkansas Arts Council.

History. Acts 1971, No. 359, § 3; A.S.A. 1947, § 6-1003; Acts 2003, No. 608, § 6.

Amendments. The 2003 amendment, in (a), substituted “Arkansas Arts Council”

for “Office of Arkansas State Arts and Humanities” twice and substituted “shall be the ex officio” for “shall be appointed by the Governor. He shall be ex officio”; in-

serted "or her" in (b); substituted "agency" for "office" in (c); and made minor stylistic changes throughout.

13-8-106. Powers and duties.

(a)(1) The Arkansas Arts Council shall be the official agency of the State of Arkansas for the development and coordination of a comprehensive statewide program for the arts.

(2) In general, but not by way of limitation, the Advisory Council of the Arkansas Arts Council shall have and exercise the following powers and duties:

(A) To advise the Governor and General Assembly on matters relating to the arts;

(B) To hold both public and private hearings for the purposes of furthering the objectives of this subchapter and to promulgate and adopt rules and regulations for the performance of its duties under this section;

(C) To enter into agreements for any purpose consistent with the objectives and purposes of this subchapter, with:

(i) Other states or with the United States or any agency or instrumentality of the United States having duties or functions similar to the Arkansas Arts Council;

(ii) Private associations or corporations;

(iii) Private or public colleges or universities;

(iv) Any public or private school; or

(v) Individual persons; and

(D) To do any and all other acts or things as may be deemed necessary and convenient by the advisory council to foster and promote the development of the arts in this state.

(b) Through the advisory council, the Arkansas Arts Council shall establish and carry out a program of grants-in-aid to groups or, in appropriate cases, to individuals engaged in or concerned with the arts for the purpose of enabling them to provide or support in Arkansas, as follows:

(1) Productions that have substantial artistic and cultural significance, giving emphasis to creativity and the maintenance and encouragement of professional excellence;

(2) Projects that will encourage and assist artists and enable them to achieve standards of professional excellence; and

(3) Other relevant projects, including surveys, research, education, and planning in the arts.

(c)(1) The Arkansas Arts Council shall be the sole and official agency of this state to receive any funds allocated and disbursed to the State of Arkansas by the United States or any agency or instrumentality thereof pursuant to the National Foundation on the Arts and Humanities Act of 1965, 20 U.S.C. § 951 et seq., as well as funds received for any program related to the arts and not expressly designated for some other state agency and to disburse the funds in accordance with the terms and conditions, if any, relating to the grants.

(2) The Executive Director of the Arkansas Arts Council shall be the Governor's liaison officer to implement the National Foundation on the Arts and Humanities Act of 1965, 20 U.S.C. § 951 et seq.

(3) All programs of grants-in-aid as described in this section shall be administered by the executive director.

(d) The Arkansas Arts Council shall be the sole and official agency of this state authorized to accept and receive, in addition to federal grants, any money and real and personal property donated, bequeathed, or devised for any purpose relating to the development and expansion of the arts and not expressly designated for some other state agency and to disburse and utilize those gifts for the purposes of this subchapter.

(e)(1) The Arkansas Arts Council is authorized to establish and collect reasonable fees for, but not limited to, advertising in newsletters and requested mailing list labels.

(2) The fees collected shall be deposited in a financial institution in this state and shall be used to support services that conform to the purposes of this subchapter.

(f) The Arkansas Arts Council shall submit an annual report to the Governor as of June 30 of each year, summarizing the Arkansas Arts Council's activities, expenditures, and grants of money or property from all sources for the preceding year. This report shall include recommendations directed toward furthering the purposes of this subchapter as the Arkansas Arts Council deems appropriate.

History. Acts 1971, No. 359, § 4; 1985, No. 571, § 1; A.S.A. 1947, § 6-1004; Acts 2003, No. 608, § 7.

Amendments. The 2003 amendment inserted the present subdivision designations in (a); substituted "Arkansas Arts Council" for "Office of Arkansas State Arts

and Humanities" in (a)(1), (a)(2) and (c)(2); deleted "and humanities" following "the arts" in (a)(1), (a)(2)(A), (a)(2)(D), (c)(1) and (d); inserted "education" in (b)(3); redesignated former (e) as present (e)(1) and (e)(2); and substituted "agency" for "office" throughout.

SUBCHAPTER 2 — PUBLIC ART PROGRAM

SECTION.

- 13-8-201. Definitions.
- 13-8-202. Applicability.
- 13-8-203. Establishment — Purpose.
- 13-8-204. Program coordinator.
- 13-8-205. Arkansas Public Art Advisory Board.

SECTION.

- 13-8-206. Selection committees.
- 13-8-207. Funds set aside.
- 13-8-208. Distribution of funds.
- 13-8-209. Award of contracts.

Effective Dates. Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas

Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved

nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by

the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-8-201. Definitions.

As used in this subchapter:

(1) "Advisory council" means the Advisory Council of the Arkansas Arts Council;

(2) "Arkansas artist" means an Arkansas native, a current resident of Arkansas, or a person who lived or worked in Arkansas for at least ten (10) years;

(3) "Art" means original creations of visual arts, including, but not limited to, paintings, sculptures, reliefs, prints, graphics, tapestries, mosaics, murals, and leaded glass;

(4)(A) "Artist" means a practitioner in the visual arts generally recognized by critics and his or her peers as a professional who produces art work.

(B) However, "artists" shall not include any person who is the architect for a project for which art work is to be selected or any member of the architect's firm; and

(5) "Board" means the Arkansas Public Art Advisory Board.

History. Acts 1985, No. 1079, § 1;
A.S.A. 1947, § 6-1005.

13-8-202. Applicability.

This subchapter shall not apply to those state buildings which the Arkansas Building Authority, with the advice of the Arkansas Public Art Advisory Board, determines are not normally accessible to the public.

History. Acts 1985, No. 1079, § 3;
A.S.A. 1947, § 6-1007.

13-8-203. Establishment — Purpose.

(a) There is established an Arkansas Public Art Program to be administered by the Arkansas Arts Council.

(b) The purpose of the program shall be to set aside funds for the purchase or commission of art work for state buildings and to select appropriate art works.

History. Acts 1985, No. 1079, § 2;
A.S.A. 1947, § 6-1006.

13-8-204. Program coordinator.

The Advisory Council of the Arkansas Arts Council through its executive director may employ a program coordinator and fix the coordinator's compensation, duties, authorities, and responsibilities.

History. Acts 1985, No. 1079, § 5;
A.S.A. 1947, § 6-1009.

13-8-205. Arkansas Public Art Advisory Board.

(a) There is established the Arkansas Public Art Advisory Board to be composed of seven (7) members.

(b)(1)(A) The Advisory Council of the Arkansas Arts Council shall appoint three (3) members as follows:

(i) One (1) member shall be a member of the advisory council;

(ii) One (1) member shall be representative of the art history and criticism discipline; and

(iii) One (1) member shall be a professional artist.

(B) The members appointed by the advisory council shall serve for three-year terms and be appointed by virtue of their knowledge, dedication, and experience.

(2) The remaining members of the board shall be as follows:

(A) The Executive Director of the Arkansas Arts Council;

(B) Two (2) architects, registered and licensed within the state, who shall be appointed by the Governor; and

(C) The Program Coordinator of the Arkansas Public Art Program.

(3) Members of the board may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c) The board shall meet at least one (1) time every three (3) months or according to the release of capital expenditure information.

(d) The board shall annually select from its membership a chair.

(e) The duties of the board shall be as follows:

(1) To examine capital projects funded by the State of Arkansas and assure the inclusion of funding for art through the program;

(2) To establish policies and procedures for the selection and procurement of art;

(3) To appoint an art selection committee for each building site for which art is to be procured through the program;

(4) To provide advice and other assistance to the committees; and

(5) To inform the public concerning the program.

History. Acts 1985, No. 1079, § 6;
A.S.A. 1947, § 6-1010; Acts 1997, No. 250,
§ 85; 2003, No. 364, §§ 1, 2.

Amendments. The 2003 amendment, in (a), inserted a comma following "Board"; inserted the present (b)(2)(A) and (b)(2)(C) subdivision designations; deleted

"the State Architect within the Arkansas State Building Services, the Administrator of the Constitution Section of Arkansas State Building Services" at the end of (a)(2)(A); added (b)(2)(B) and made related changes.

13-8-206. Selection committees.

(a)(1) Each selection committee shall be composed of nine (9) members. The membership shall be as follows:

- (A) The chair of the Arkansas Public Art Advisory Board;
- (B) The member of the Advisory Council of the Arkansas Arts Council who is appointed to the board;
- (C) The architect of the construction or renovation project;
- (D) The director of the agency that owns the building to be constructed or renovated;
- (E) Two (2) representatives of the community in which the building is located who shall be appointed by the board based on the appointee's demonstrated love, appreciation, and experience with the arts and knowledge of the community;
- (F) A professional representative of the art history or criticism field to be appointed by the board;
- (G) A practicing artist who shall be appointed by the board; and
- (H) The Program Coordinator of the Arkansas Public Art Program who shall serve as a nonvoting member.

(2) No artist who has work under consideration for selection by a committee shall be eligible to serve on the committee.

(b) Committee members may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c)(1) It shall be the duty of the committee to select works of art for purchase or commission for the building site.

(2) If all factors are equivalent, preference shall be given to the selection of works of art by Arkansas artists.

(3) The committee shall fulfill communication needs between the communities, the building occupants, the public, the architects, and the artists.

(d) The committee shall dissolve upon the procurement of the art work for the building site.

History. Acts 1985, No. 1079, § 7;
A.S.A. 1947, § 6-1011; Acts 1997, No. 250,
§ 86.

13-8-207. Funds set aside.

(a) For each new state building for which total projected cost to construct and equip the building is greater than two million dollars (\$2,000,000), one-half percent ($\frac{1}{2}\%$) or less of the total projected cost may be set aside and designated within the method of finance for the purchase or commission of art through the Arkansas Public Art Program.

(b) One-half percent ($\frac{1}{2}\%$) or less of the total projected cost of any major capital improvement on a state building may be set aside and designated within the method of finance for the purchase or commission of art through the program, if the total projected cost of the capital improvement is greater than two million dollars (\$2,000,000).

History. Acts 1985, No. 1079, § 3;
A.S.A. 1947, § 6-1007.

13-8-208. Distribution of funds.

Funds set aside for the purchase or commission of art through the Arkansas Public Art Program shall be divided as follows:

(1)(A) Eight percent (8%) of the funds drawn from the method of finance shall be deposited in the State Treasury as special revenues, and the Treasurer of State shall credit them to a fund to be known as the Arkansas Public Art Program Fund.

(B) The fund shall be administered by the Arkansas Arts Council and shall be used for the administration of the Arkansas Public Art Program;

(2) Not more than eighty percent (80%) of the funds shall be used to purchase or commission art for the building to be constructed or renovated;

(3) Not less than twelve percent (12%) of the funds shall be used for the purchase or commission of art for other state buildings; and

(4) The exact percentages provided for in subdivisions (2) and (3) of this section to be used shall be determined by the Arkansas Public Art Advisory Board.

History. Acts 1985, No. 1079, § 4;
A.S.A. 1947, § 6-1008.

13-8-209. Award of contracts.

Pursuant to the instruction of the selection committee for the project, the Arkansas Building Authority shall award contracts for the purchase or commission of art work for the Arkansas Public Art Program, and the owner agency shall administer payments.

History. Acts 1985, No. 1079, § 8;
A.S.A. 1947, § 6-1012; Acts 2003, No. 364,
§ 3.

substituted "Arkansas Building Authority" for "Arkansas State Building Services," inserted "the owner agency," and made stylistic changes.

Amendments. The 2003 amendment

CHAPTER 9

ARKANSAS ENTERTAINERS HALL OF FAME BOARD

SECTION.

13-9-101. Members — Meetings.

13-9-102. [Repealed.]

13-9-103. Functions and powers.

SECTION.

13-9-104. Donations.

13-9-105. Arkansas Entertainers Hall of Fame fund.

Effective Dates. Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act

1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act

amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 255, § 11; Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to the effective

and efficient administration of the Arkansas Entertainers Hall of Fame program that the responsibility for administering and promoting the program be placed in the Department of Parks and Tourism as soon as possible and that this act is designed to accomplish this purpose and should be given effect immediately. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

13-9-101. Members — Meetings.

(a) There is created and established the Arkansas Entertainers Hall of Fame Board.

(b)(1) The board shall be composed of eleven (11) voting members, nine (9) of whom shall be appointed by the Governor for terms of six (6) years each.

(2) Two (2) members shall be appointed by the Governor from each congressional district in the state, and one (1) shall be appointed at large.

(3)(A) Additionally, the Secretary of State shall be an ex officio nonvoting member.

(B) The Speaker of the House of Representatives shall appoint one (1) voting member to serve at the pleasure of the Speaker.

(C) The President Pro Tempore of the Senate shall appoint one (1) voting member to serve at the pleasure of the President Pro Tempore.

(D) In addition, the members of the board shall appoint two (2) ex officio nonvoting members.

(4) Members of the board shall not be compensated for their services, but each member may receive expense reimbursement in accordance with § 25-16-902.

(c)(1) The voting members of the board shall select a chair and a vice chair from among their own number.

(2) The board shall meet annually.

(3) A majority of the voting members shall constitute a quorum for the transaction of business.

History. Acts 1985, No. 671, § 1; A.S.A. 1993, No. 703, § 1; 1997, No. 250, § 87; 1947, § 5-122; Acts 1987, No. 467, § 1; 1997, No. 255, § 4; 2001, No. 1288, § 5.

Publisher's Notes. Acts 1985, No. 671, § 1, provided in part that, of the first members appointed to the board, two members should serve for two years and two members should serve for four years as directed by the Governor.

Acts 1987, No. 467, § 1, provided, in part, that the four additional members provided by this act should be appointed for such terms as would result in the terms of three members of the board expiring every other year.

Amendments. The 2001 amendment substituted "eleven (11) voting" for "nine (9), substituted "nine (9) of whom" for

"who" in (b)(1); inserted "by the Governor" following "appointed" in (b)(2); deleted "the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and" following "Additionally" and made minor stylistic changes in (b)(3)(A); added the present (b)(3)(B) and (b)(3)(C); redesignated the former (b)(3)(B) as (b)(3)(D); substituted "§ 25-16-902" for "§ 25-16-901 et seq." in (b)(4); inserted "voting" preceding "members" and "chair" following "select a" and following "vice" in (c)(1); inserted "voting" preceding "members" in (c)(3).

13-9-102. [Repealed.]

Publisher's Notes. This section, concerning office space and staff, was repealed by Acts 1997, No. 255, § 7. The

section was derived from Acts 1985, No. 671, § 2; A.S.A. 1947, § 5-123; Acts 1987, No. 467, § 2.

13-9-103. Functions and powers.

(a) It shall be the function and main purpose of the Arkansas Entertainers Hall of Fame Board to honor those, living or dead, who, by achievement or service, have made outstanding and lasting contributions to entertainment in Arkansas or elsewhere, by annually selecting Arkansas entertainers for induction into the Arkansas Entertainers Hall of Fame.

(b) It shall also be the responsibility of the board to plan and supervise the annual ceremony for the induction of Arkansas entertainers into the Arkansas Entertainers Hall of Fame.

(c) The board may adopt appropriate rules and regulations concerning the procedures to be followed in selecting inductees.

History. Acts 1985, No. 671, § 3; A.S.A. 1947, § 5-124; Acts 1987, No. 467, § 3; 1997, No. 255, § 5.

A.C.R.C. Notes. Acts 1997, No. 255, §§ 1-3, provided: "Section 1. It is the intent and purpose of this act to transfer the authority and responsibility for administration of the Arkansas Entertainers Hall of Fame for the Arkansas Entertainers Hall of Fame Board to the Arkansas Department of Parks and Tourism; to continue the Arkansas Entertainers Hall of Fame Board with the authority and responsibility only to meet annually to select entertainers for induction into the Entertainers Hall of Fame and to plan and supervise the annual ceremony for the induction of entertainers into the Entertainers Hall of Fame; and to transfer

Entertainers Hall of Fame — Cash Fund balances to the Department of Parks and Tourism to be used for the administration and promotion of the Arkansas Entertainers Hall of Fame program.

"Section 2. All powers, functions and duties of the Arkansas Entertainers Hall of Fame Board with respect to the administration and promotion of the Arkansas Entertainers Hall of Fame program, except the function of annually selecting the entertainers who are to be inducted into the Entertainers Hall of Fame and the planning and supervision of the annual ceremony for inducting entertainers into the Hall of Fame, which are hereby reserved to the Arkansas Entertainers Hall of Fame Board, are hereby transferred to and shall hereafter be exercised by the

Arkansas Department of Parks and Tourism.

"Section 3. All Hall of Fame — Cash Fund balances as reflected in the books of the Chief Fiscal Officer, the Treasurer of State, and the Auditor of State are hereby transferred to the Arkansas Department of Parks and Tourism to be maintained in a separate account and used for the administration and promotion of the Arkansas Entertainers Hall of Fame program."

Acts 1997, No. 470, § 35, provided: "There is hereby transferred all authority, rights, powers, duties, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, privileges and jurisdiction in conformance with (A.C.A. 13-9-101 et seq.) belonging or granted to the Arkansas Entertainers Hall of Fame Board to the Department of Parks and Tourism.

13-9-104. Donations.

(a) The Department of Parks and Tourism may solicit and accept donations, contributions, and gifts of money and property to be used for the support of the Arkansas Entertainers Hall of Fame program.

(b) All property, money, income, and resources of the department received for support of the program shall be exempt from taxation, and all gifts made to the department shall be tax exempt.

History. Acts 1985, No. 671, § 4; A.S.A. 1947, § 5-125; Acts 1997, No. 255, § 6.

13-9-105. Arkansas Entertainers Hall of Fame fund.

The Chief Fiscal Officer of the State, the Treasurer of State, and the Auditor of State shall establish upon their books an account for Hall of Fame — Cash Funds to receive the contributions to the Arkansas Entertainers Hall of Fame.

History. Acts 1985, No. 671, § 5; A.S.A. 1947, § 5-126.

A.C.R.C. Notes. Acts 1997, No. 255, § 3, provided: "All Hall of Fame — Cash Fund balances as reflected in the books of the Chief Fiscal Officer, the Treasurer of

State, and the Auditor of State are hereby transferred to the Arkansas Department of Parks and Tourism to be maintained in a separate account and used for the administration and promotion of the Arkansas Entertainers Hall of Fame program."

CHAPTER 10

MEDAL OF HONOR COMMISSION

SECTION.

13-10-101. [Repealed.]

13-10-101. [Repealed.]

Publisher's Notes. Former chapter 10 derived from Acts 1997, No. 1217, and Acts 1999, No. 556, was repealed by Acts 2001, No. 783, § 2. The former chapter was derived from Acts 1997, No. 1217, § 1, and Acts 1999, No. 556, § 1.

Former chapter 10 derived from Acts

1989, No. 573, concerning county record retention, was repealed by Acts 1991, No. 800, § 11. The former chapter was derived from the following sources:

13-10-101. Acts 1989, No. 573, § 1.

13-10-102. Acts 1989, No. 573, § 2.

13-10-103. Acts 1989, No. 573, § 3.

13-10-104. Acts 1989, No. 573, §§ 4, 5.
For present law, see § 13-4-301 et seq.

CHAPTER 11

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SECTION.

13-11-101. Creation.

SECTION.

13-11-102. Administration — Rules and regulations.

13-11-101. Creation.

In order to honor the significant contributions of older Arkansans, there is now created the Senior Arkansans Hall of Fame.

History. Acts 1991, No. 1218, § 1.

13-11-102. Administration — Rules and regulations.

(a) The Senior Arkansans Hall of Fame shall be administered by the Division of Aging and Adult Services of the Department of Human Services, in consultation with the Joint Interim Committee on Aging and Legislative Affairs.

(b) The division will promulgate rules and regulations to implement the hall of fame and to select candidates for inclusion.

History. Acts 1991, No. 1218, § 2.

CHAPTER 12

ARKANSAS FORESTERS HALL OF FAME

SECTION.

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13-12-102. Selection.

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13-12-103. Regulations.

13-12-101. Creation.

There is created the Arkansas Foresters Hall of Fame to be housed in the Department of Forest Resources at the University of Arkansas at Monticello.

History. Acts 1995, No. 111, § 1.

13-12-102. Selection.

Persons to be inducted into the Arkansas Foresters Hall of Fame shall be selected by the Arkansas Division of the Society of American Foresters.

History. Acts 1995, No. 111, § 1.

13-12-103. Regulations.

The Dean of the Department of Forest Resources at the University of Arkansas at Monticello shall promulgate such regulations as are necessary to implement the provisions of this chapter.

History. Acts 1995, No. 111, § 1.

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